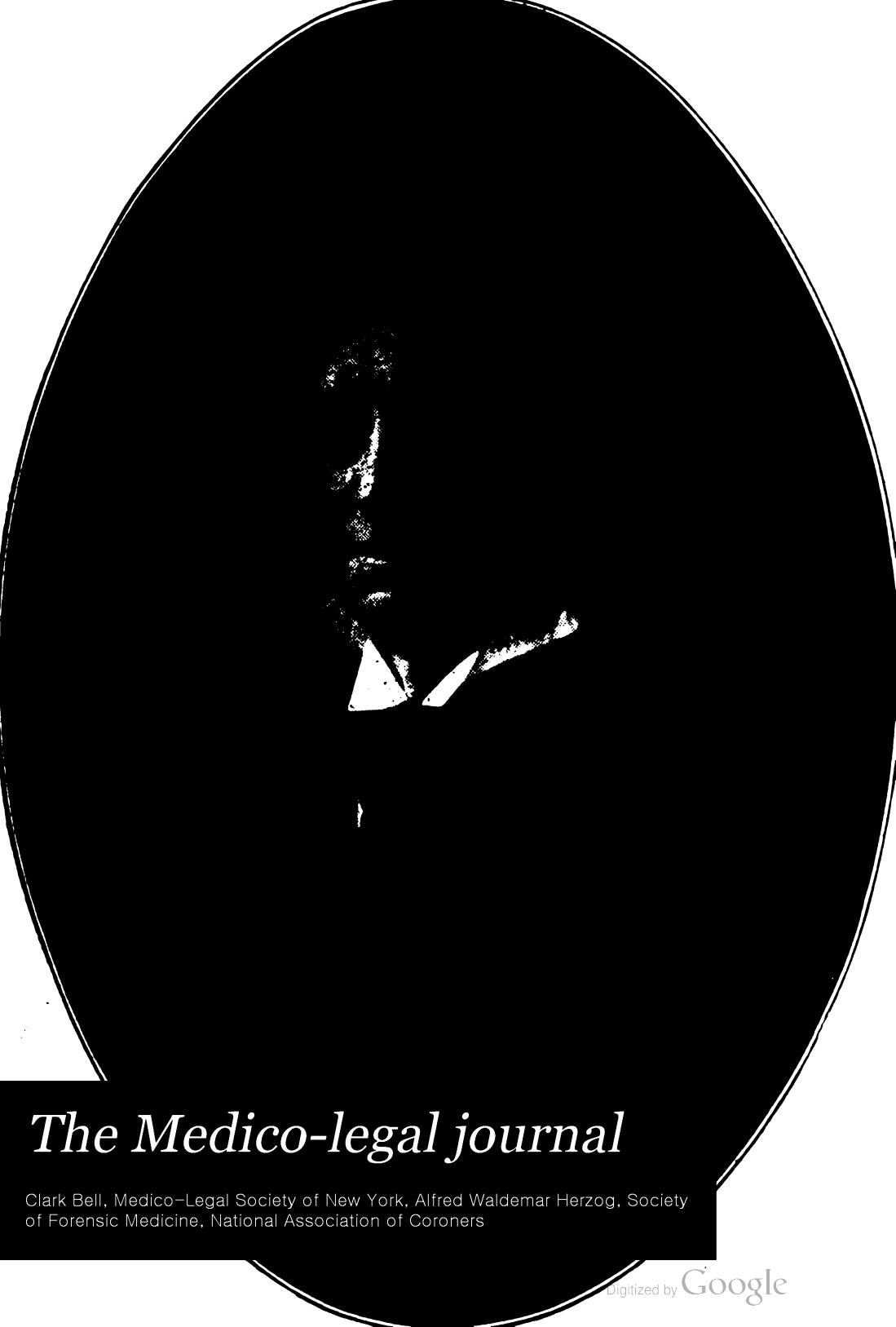
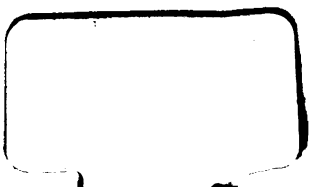


The Medico-legal journal

Clark Bell, Medico-Legal Society of New York, Alfred Waldemar Herzog, Society of Forensic Medicine, National Association of Coroners



THE

Medico-Legal Journal

Published quarterly under the auspices of the Medico-Legal Society of New York

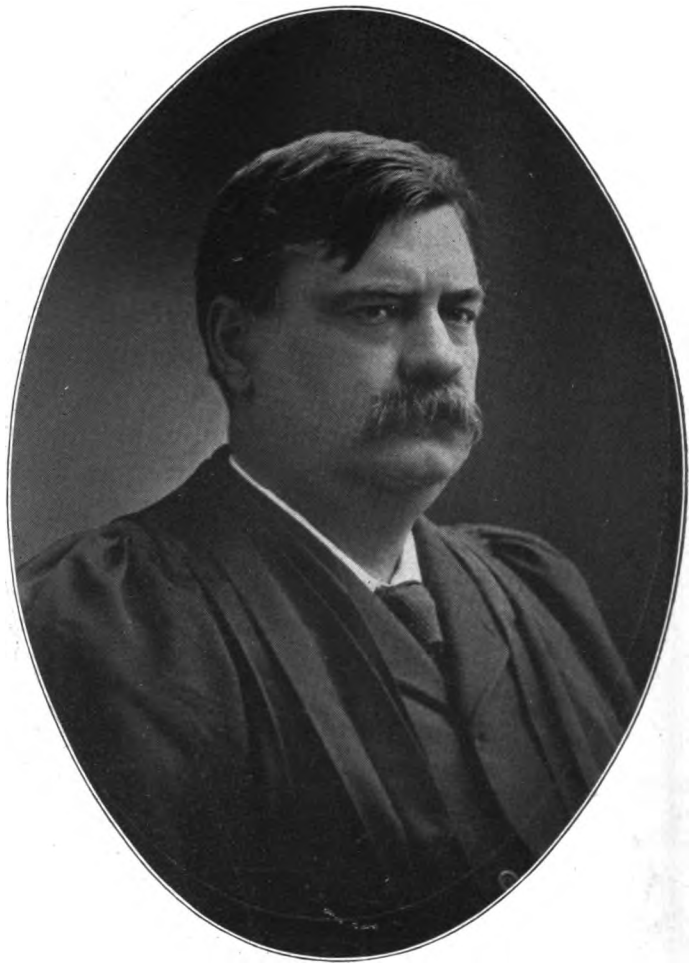
VOL. XXVIII NO. 1

JUNE

New York
MEDICO-LEGAL JOURNAL
1910

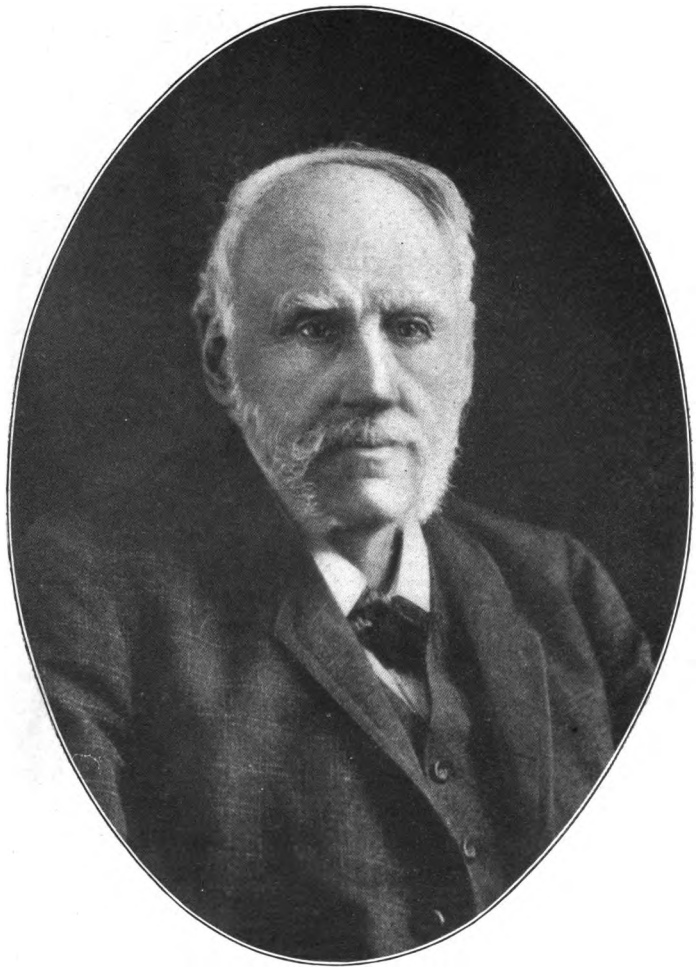
HON. EDWARD PATTERSON, A.B, L.L.D.

Ex-Presiding Justice, Appellate Division, First Department, New York Supreme Court.
1896-1909



HON. CHARLES HENRY TRUAX.
Trial Division, New York Supreme Court.

Senior Justice, Dec. 31, 1909.



HON. GEORGE H. WILLIAMS OF OREGON.

Late Chief Justice of the Supreme Court of the Territory of Oregon.
Late Attorney-General of the United States.
Corresponding Member of the Medico-Legal Society of New York.

THE HON. WILLIAM F. CODY.

Corresponding Member of the N. Y. Medico-Legal Society.

Medico-Legal Society

Memorial Action

TO ITS HONORARY MEMBERS

Hon. Edward Patterson, A.B., L.L.D.

Late Presiding Justice Appellate Division First Department New York Supreme Court.

Hon. Charles Henry Truax, A.M., L.L.D.

of the Trial Division New York Supreme Court.

March 16th, 1910

Address by

CLARK BELL Ex- President and Chairman Memorial Committee.
of the MEDICO-LEGAL SOCIETY

TRIBUTES FROM THE BENCH.

By Hon. Jos. F. Daly

" Abraham R. Lawrence.

" James W. Houghton.

" Victor J. Dowling.

TRIBUTES FROM THE BAR.

John J. Delaney, Esq.,
Wm. A. Purrington, Esq., and others.

TRIBUTE FROM THE BENCH, BAR AND PRESS.

JUDGE EDWARD PATTERSON, A.B., L.L.D.

CLARK BELL, ESQ., L.L.D.

Ex-President of the Medico-Legal Soc iety.

To the fellows of the Medico-Legal Society.

The death of Justice Patterson merits notice by the Medico-Legal Society.

He was born in this city in 1839, and has spent his life and been throughly identified with the development and growth of this metropolis.

No member of the present Bench shows such a record. His death was hardly to have been expected. He was in the full vigor of life, of great mental activity, and since 1895 had been in the discharge of the Judicial duties of a Justice of the Supreme Court.

He served out the full term of the judicial service, and then laid aside his armor when he had reached the three score and ten years of the Psalmist. Graduating early at Hobart college, which gave him the degree of A.B. He entered the law school at Columbia in his native city. He was admitted to the bar in 1860, and practiced law until he was elected to the bench of the supreme court. He was in the actual work of a lawyer and judge one half of a century. About equaly divided between the Bar and the Bench.

In every walk of life he held and deserved the confidence of the bar, the bench, and the public. As a judge he was promoted to be presiding justice of the Appellate Division of the first department, the highest judicial position in the first judicial district, serving out ably and acceptably the full term of that high office which he left when he left the bench.

He was honored in his career at the bar by an election to the Presidency of the Bar Association of the City of New York.

His last public appearance was an address at the dinner of the New York County Lawyers Association of this city tendered to the Judges of the Appellate Division of the New York Supreme Court of which he was then Presiding Justice where he delivered an elaborate and carefully prepared address.

Judge Patterson was an easy and graceful speaker, a careful

studious, and able lawyer, and as a judge had the judicial temper mind and bearing.

He was a man of education, culture, learned in law; of good address; a gentleman of the old school; a judge of unblemished character, honest, fearless, and graced and adorned the bench and his profession.

He was interested in Medical jurisprudence, contributed to the labors of the Medico Legal Society of New York; was an active member. His best work is a treatise on, "Monomania in its relation to Testamentary Capacity," which was carefully and exhaustively treated, and is a standard work on the subject he considered, published in Medico-Legal papers, series 3, page 13.

His death appeared to have been untimely. His career of usefulness seemed to me to have just opened as one of rare intellectual vigor and strength. His return to the bar would have been the openng of a still more brilliant career, for which his fourteen years on the bench peculiarly fitted him, with the examples from our own bench and bar before us, in the vigorous life and work of David Dudley, Field Benjamin Silliman, Judge Abraham R. Lawrence, Justice Charles Donohue, Luther R. Marsh and scores of others at the bar, and in all walks of life.

Mr. Justice George L. Ingraham was named his successor by the Governor at the expiration of Judge Patterson's term, and now fills that position. Judge Patterson was the son of Edward Martin Talmage Patterson. The degree of L. L. D. was conformed upon him by Williams and Hobart Colleges. Admitted to the Bar in 1860. Married Isabel Liddon Coxe. He was a member of Alpha Phi: Beta Kappa; American Museum of Natural History; Manhattan, Metropolitan; Democratic; Plapers; N. Y. Yacht; and the Century Clubs. He died January 28, 1910 two weeks after the death of Judge Truax in N. Y. City. I take pride and pleasure in submitting these brief sketches of the men we honor, the tributes sent me by others, for this occasion.

HON. CHARLES HENRY TRUAX, A.M. L.L.D.

BY CLARK BELL, ESQ., L.L.D.

Judge Charles Henry Truax, was born at Durhamville, Oneida County, October 31, 1846. Was a descendant of Phillip du Trieux, a Walloon, who settled in New York in 1623.

He graduated at Hamilton college in 1867, who confered the degree of A. M., and later of L. L. D., upon him.

He was admitted to the bar in New York in 1868 and practiced there.

He was elected to the bench of the superior court in this city, and served from 1880 to 1894 when he took his seat on the supreme bench by the constitutional provision, was re-elected and served a full term, expiring Dec. 31,1909. Served full term of 14 years.

Judge Truax was for many years President of the Manhattan Club, and was a prominent factor in the counsels of the Democratic party.

He was one of the authors of Bench and Bar of the city of New York, and wrote the early history of the Walloon Settlers, from whom he sprang.

He served the full term on the supreme bench to which he was elected, but failed to secure the joint nomination at the close of his office Dec. 31, 1909,(which had been the custom of both parties) at the general election; was nominated by the Democratic party, but went down with his party candidates defeated by the fusion forces; Mayor Gaynor being the only candidate elected on the democratic ticket.

Judge Truax was in the prime of life, and could have returned to the practice of law with every prospect of a great success, as he had a large following, and strong friends.

He was chargrined at the defeat, took it too seriously, and succumbed, to an illness which he was not able to overcome.

He had the full confidence of his party and would have had a great future at the bar, as well as a bright political future.

The bar loses a strong man, at his death; he was elected an honorary member of the Medico Legal Society in January notwithstanding his defeat at the election of Nov. 1909.

He leaves a widow and an interesting family. He married Nancy C. Stone, February 9,1871 at Camden, N. Y., and on March 4, 1895, Caroline Sanders at New York City, was in constitutional convention of 1904; President Holland Society, 1896-7 President, Sons of Oneida; and died in New York City, January 13, 1910 at the zenith of his ability and usefulness.

HON. JOSEPH F. DALY.

54 Wall Street,
New York, March 2d, 1910.

CLARK BELL, ESQ.,
Ex-President Medico-Legal Society,
DEAR SIR:—

I am in receipt of your invitation to the meeting on March 16th, at which memorial action will be taken in regard to the death of Justices Patterson and Truax. I regret that I cannot be present, but in reply to your request I should like to say with respect to those eminent jurists, whom I held among my warm friends, that no tribute that can be paid to their memory can exceed the estimation in which they were held. Once upon a time (1884), we had the expectation of welcoming Judge Patterson to our Court (the old Common Pleas), but the change of a few votes divided the poll in favor of his and our friend, Judge Henry Wilder Allen. Each of them would gladly have yielded to the other; but Judge Patterson refused to allow any question to be raised and Judge Allen was seated. Two years later Judge Patterson was raised to the Bench of the Supreme Court, which he honored with his high character and ample judicial attainments.

Judge Truax was on the Bench of the Superior Court (the Sister Court of the Common Pleas), up to the time of consolidation (1896), and was noted for the possession of qualities which made it a pleasure to practice before him. His temper was even, his disposition genial, and he possessed in examining questions of fact, good hard common sense, and thorough knowledge of men and affairs. In administering the law he adhered religiously to legal principles. He was, like Judge Patterson, a great favorite with the Bar and the regret at his untimely death was general.

I have the honor to be,

Yours very truly,
J. F. DALY.

HON. ABRAHAM R. LAWRENCE.

New York, March 14, 1910.

CLARK BELL, ESQ.,
Ex-President Medico-Legal Society,
DEAR SIR:—

I regret very much that I shall be unavoidably prevented from attending the meeting of the Medico-Legal Society on March sixteenth. It was my privilege to be a friend and associate of the late Charles H. Truax for many years. I should have been glad to take part in the memorial exercises which the Society has planned, and to have expressed *viva voce* the sentiments of respect and affection which I entertained for him. Of his brilliant judicial career, which terminated so recently and so sadly, I need scarcely speak; it is known to all. As a jurist he stood in the front rank of our Legal Lights. His professional acumen, his painstaking attention to details, his clear breadth of vision, his sound grasp and knowledge of the law, are too well known to need comment. In his social capacity he was sympathetic and many sided, built in a great and generous mould. A fine classical scholar, with rare critical ability, he possessed a keen appreciation of all that was worthy and beautiful in arts and letters. Above all, I wish to record my tribute to him as a man. He was of kind and gentle nature, warm in his affections and friendships, and ever ready to aid those who needed his assistance. By his untimely death the state has been deprived of a most faithful citizen and his associates of a dear and *much* beloved friend. I am,

Very sincerely yours,
ABRAHAM R. LAWRENCE.

SUPREME COURT,
APPELLATE DIVISION,
FIRST DEPARTMENT,
New York, March 3d, 1910.

CLARK BELL, ESQ.,
39 Broadway, N. Y. City.

MY DEAR SIR.—

I regret that I shall be unable to attend the meeting of the Medico-Legal Society, which will take memorial action on Life and Career of the late Justice Edward Patterson, former Presiding Justice of this Department.

An engagement made some weeks since, to dine with a party of friends on that evening will prevent my being with you.

No one would be more heartily in sympathy with the purpose to do honor to the memory of this cultivated scholar, ideal gentleman and learned jurist, than I; who many times, have had occasion to acknowledge my indebtedness to his thoughtfulness and kindness.

Very truly yours,
VICTOR J. DOWLING.

SUPREME COURT,
APPELLATE DIVISION,
THIRD DEPARTMENT,
Saratoga Springs, N. Y., March 7th, 1910.

Mr. Clark Bell,
39 Broadway, N. Y. City.

MY DEAR MR. BELL:—

I am very sorry that I cannot be present at the dinner of the Medico-Legal Society on the 16th inst., to take memorial action respecting the late Justice Patterson.

During my four years' association with him on the Appellate Division of the First Department, I came to esteem him as a sincere friend and to regard him as a man of the highest grade and marvelled more and more at the breadth of his attainments in literature and the law. While sound and accurate in the ordinary principles of the law he possessd an extraordinary knowledge of the by-ways and untrodden paths which go to make the History of the Law. His fame as a jurist must necessarily grow with time.

I regret exceedingly that peremptory engagements make it impossible for me to be present in the honor of his memory.

Very sincerely yours,
JAMES W. HOUGHTON.

EX-JUDGE DAVID LEVENTRITT.

CLARK BELL, ESQ.,
39 Broadway, N. Y. City.

New York March 9th, 1910.

DEAR SIR:—

Owing to a recent bereavement in my family, I feel constrained to decline your kind invitation to speak at the Memorial Dinner of the Medico-Legal Society.

Assuring you of my appreciation of the honor, and wishing you every success, I remain,

Very respectfully,
DAVID LEVENTRITT.

DELANY & ST. JOHN

Counsellors at Law,
2 Rector St., New York.

March 14, 1910.

HON. CLARK BELL,
Ex-President Medico-Legal Society,
39 Broadway, N. Y. City.

DEAR SIR:—

Although, because of a previous engagement, I am unable to be present at the meeting to which you invite me to say some words in memory of the late Justice Patterson, I cannot refrain from giving the expression to my appreciation of his high character, and of his life of usefulness. No man can think of the late Justice Patterson, whether as a lawyer, a judge or a citizen, without recalling the ideals of integrity of the old school of American gentlemen, modified by the conditions of modern times.

Justice Patterson was a scholar, who, to the end of his days, had a keen and lively appreciation of the whole field of classical learning; and its refining influence showed itself in his delightful and instructive conversation, in his elevated tone of thought, and its perfect expression.

As a lawyer—his conduct was guided by the wise ethical principles, whether in regard to the public, the Courts or his clients.

His powers of mind and heart made him a charming acquaintance and friend, and his blameless life made him an examplar to all his fellows. Those who knew him well, who loved and respected him, will ever hold him in cherished remembrance, and will offer to his shade on occasions like this, the homage of grateful and patriotic hearts.

As a judge he was ruled by the strict standard of justic, and as a citizen—he followed the example of those high-minded men, who made our country free and prosperous.

Sincerely,
JOHN J. DELANEY.

THE RETIREMENT OF MR. JUSTICE PATTERSON.

A Tribute from W. A. Purrington of the Bar

Contributed to Dr. Bell's extracts from an article published in Bench & Bar

A judge, said Coke in his Institutes, should have two salts, that of wisdom to preserve him from flat foolishness and that of conscience to keep him from playing the deuce; or, in Sir Edward's own words, "*Judex habere debet duos sales, salem sapientiae ne sit insipidus, et salem conscientiae ne sit diabolus.*" Another qualification which never entered into the mind of that learned but testy judge, has been added by a modern, smarting, perhaps, under judicial brusqueness, "The first qualification of a judge is that he be a gentleman; if in addition to that he know some law, so much the better." Men of great legal attainments in times past have quitted or have been removed from the bench, leaving no moaning at the bar, except, possibly, among those for whom thrift has followed fawning. But when one who, possessed of learning and experience, has won respect, by personal character, and affection, by general culture and urbanity, leaves judicial position, then the bar suffers and expresses re-

gret for its loss, not of his ability alone but of the spirit of comradeship that oils the stiff machinery of the law and makes its parts work easily to the common end, attainment of justice.

The retirement of Mr. Justice Patterson from the post of Presiding Justice of the Appellate Division in the First Department by arbitrary limitation of age, while in the full maturity of intellectual powers, brings such a sense of loss. Old men for judgment; young men for action, has been a tradition of all races; yet blind Dandolo scaling the walls of Constantinople when ninety-four, and Blucher at seventy-three tiring out that incarnation of activity, Napoleon, grown old at forty-six, are but instances to show that even in the field, where action is a prime requisite, old age has its honors. The highest court in the land is under no rule compelling it to part with its most experienced members at a fixed period; and it would seem for many reasons that retirement might be left a matter of judicial discretion. At our own bar to-day, its acknowledged leader, Mr. Choate, well past the age of judicial retirement, is unravelling what seemed to some younger minds inextricable tangles of corporate chicane. And the return of Judge Patterson to the ranks is the beginning, it is hoped, of more years of fruitful service, with rest and those opportunities of fuller enjoyment among his friends that judicial life has precluded.

Judge Patterson, before going to the bench, had an extensive practice, a detriment, perhaps, if it make of a judge an advocate, but a distinct advantage if it train him to sifting the chaff from the wheat. He reaped the advantage, not the detriment. In both branches of the profession, he has been an exponent of sound legal principles rather than a sophist seeking to make by devices of advocacy the worse appear the better reason. Not that he has lacked rhetorical skill. His opinions have the best element of style, lucidity of expression that comes of clear thinking; and his occasional addresses have been most felicitous in phrase.

Admitted to the bar in 1860, he practised until 1886, when he was elected on the Democratic ticket as a Justice of the Supreme Court and at the expiration of his term was renominated, after the strongly manifested approval of the bar and the press, by both political parties; so that his professional life has been about equally divided between the two branches of our profession. Upon the creation of the Appellate Division, he was designated as one of the justices in the First Department assigned exclusively to the work of review. Since then, his record in the law is written in the one hundred and thirty-three volumes of that Division's reports. Becoming the third Presiding Justice upon the retirement of Mr. Justice O'Brien after the death of Mr. Justice Van Brunt, his influence was immediately felt in a still greater expedition of the calendar, which his predecessor had accelerated, and the law's delay ceased to exist in his part of the court.

He did not forget, when a judge, that he was only a member of the bar seated for the time being on the bench. Authority led him to play no fantastic tricks and the angels shed no tears over him. He preserved his urbanity. He has not been that ill tuned cymbal, an over speaking judge, nor displayed that lack of grace which leads a judge "first to find that which he might have heard in due time from the bar, or to show quickness of conceit in cutting evidence or counsel short, or to prevent information by questions, though pertinent." He doffs his robes as spotless as he donned them.—From BENCH AND BAR.

DEATH OF JUDGE PATTERSON.

BENCH AND BAR records with deep regret the death of former Justice Edward Patterson, which occurred on January 28th, only a few weeks after his retirement from the Appellate Division of the Supreme Court, First

Department. Judge Patterson was born in New York City in 1839. He was admitted to the bar in 1860, and practised law successfully until his election to the New York Supreme Court in 1886 on the Democratic ticket. In the Supreme Court he served as trial justice until 1896, when he became an Associate Justice of the Appellate Division, First Department, upon its organization in that year. In 1900 he was re-elected for a second term as Supreme Court Justice upon the nomination of both of the great political parties. He continued to sit in the Appellate Division until his recent retirement, and he was made Presiding Justice upon the resignation of Judge Morgan J. O'Brien in 1906. In our last issue we published an estimate of Judge Patterson's character and labors, written upon the occasion of his retirement by Mr. W. A. Purrington. The magazine containing this article was distributed to our readers just after the announcement of Judge Patterson's death. The hope expressed in it that Judge Patterson might soon resume practice at the bar is thus not to be fulfilled; but the article may stand as a just appreciation of an able and upright judge, and a man held in esteem and affection by all who knew him in his personal relations.

DEATH OF HON. CHARLES H. TRUAX.

When Judge Truax retired from the Supreme Court at the expiration of his term on December 31st, there was no reason to suppose that he had not many years of active life before him, and his sudden decease on January 14th came as a surprise and shock to his friends. Judge Truax was born in Oneida County in 1846, and there received his education. Before taking up the law he taught school for a time. He came to New York in 1868, and was admitted to the bar the same year. In 1880, after some twelve years of successful practice, he was elected a Justice of the New York Superior Court on the Democratic ticket. Here Judge Truax served for the term of fourteen years. He was a candidate for re-election, but was defeated by the political revolution of 1894, which brought a Republican administration into office in New York City. A year later, however, Judge Truax was elected to the Supreme Court. At the expiration of his term, he had, therefore, given twenty-eight years of effective judicial service, and for some time prior to his retirement he was frequently alluded to as Dean of the Trial Bench in New York County. Judge Truax was a candidate for re-election to the Supreme Court last November, and, such was the esteem in which he was held by his professional brethren, he was supported by the leaders of the bar, and we believe by the great majority of the lawyers of the First Judicial District, without regard to party. He was carried down to defeat, however, along with the other candidates nominated with him on the Democratic ticket, by a political revolution similar in some respects to that of 1894. Had he lived he would in all probability have been returned to the bench, thus repeating his own previous experience. On the morning of January 14th, when the death of Judge Truax became known at the court house, many of the Justices sitting paid tributes to his memory. We quote the following from the remarks of Justice O'Gorman:

"Judge Truax came to the Bar as a young man; he left it the thirty-first of last December after a long and distinguished service which the profession must recognize as having constituted a very valuable contribution to the administration of justice in our generation. The public has known Judge Truax as a public official, as a judge, but to his associates both on the bench and at the bar he will ever be rememberd as a great judge of high attainments, who, in every act of his judicial life, was in truth a minister of justice, never influenced by fear or favor, holding always an intense consciousness of the great responsibility of the judicial office."

(From Jan. *Bench and Bar*).

Reception Voted to Former Justice Patterson.

The Association of the Bar of the City of New York paid a signal honor to former Supreme Court Justice Patterson in adopting a resolution to tender him a reception upon his retirement from the bench. On only two previous occasions has this Association given a reception to a retiring judge,—one in 1882, when Judge Blatchford was elevated from the United States Circuit Court to the United States Supreme Court, and the other, in 1886, upon the retirement of Justice Noah Davis, of the New York Supreme Court, and Justice Hooper C. Van Vorst of the New York Superior Court. The action of the Association in the case of Justice Patterson is strong testimony of the esteem in which he was held by the members. The date of the reception had not yet been fixed at the time of his death. The matter is in the hands of a committee.

(March Number,
Medico-Legal Journal).

The March meeting of the Medico-Legal Society was held on the 16th of March, 1910, at a monthly dinner, held at Reisenweber's. The president, General Stillman F. Kneeland was in the chair, and B. J. De Voll acting secretary.

The minutes of the February, 1910 meeting were read and approved.

Mr. Clark Bell, chairman of the Executive Committee and of the Committee of Arrangements to take memorial action on the death of Honorary Members of the Medico-Legal Society, Hon. Edward Patterson, Presiding Justice of the Appellate Division of the Supreme Court and Hon. Charles H. Truax, Justice Dean of the Supreme Court of the State of New York, read tributes upon the life and career of Judges Patterson and Truax. Tributes to the deceased Judges from the following members of the Bench were then submitted and read; namely: Ex-Judge Joseph F. Daly, Ex-Judge Abram R. Lawrence, Judge James W. Houghton, late of the Appellate Division, First Department, and now of the Third Department, and Hon. Victor J. Dowling, Justice of the Appellate Division, First Department, and letters of regret from Judges Dugro, John Proctor Clark contributions and tributes from John J. Delany, Esq., William A. Purrington, Esq., of the Bar, to the memory of the deceased judges. John R. Dos Passos, who went abroad on that day's steamer sent regrets at his enforced absence.

Dr. Bell then read a paper by Dr. Henry Maudsley, entitled "A Mental Hospital—Its Aims and Uses," and a preliminary sketch of Dr. Maudsley, who had sent the paper and two portraits of himself; one taken when he had been elected an Honorary Member of the Medico-Legal Society, and one taken a short time ago.

It was on motion of Dr. Anna W. Bloomer ordered that the Medico-Legal Journal publish 500 copies of the Memorial action and of the articles of Maudsley, Walton and Atkinson, of London.

Mary Louise Cassidy-Woelber, author of "Musical Impressions of Poems and Song," rendered some selections from Kipling, which were recieved with great enthusiasm by the Body. Madam Cassidy-Woelber has a fine voice and is a very accomplished artist.

Miss T. Van Cosna of Vienna rendered selections from the opera of Carmen to the great delight of the Society. She is a very gifted artist, who has but recently come to our city, and has not yet appeared on our operatic stage, but is making arrangements to do so. She has a wonderful voice, and one of rare excellence and purity, which wholly justified the applause she has received as prima donna in European capitals.

The following persons were on recommendation of the chairman of the Executive Committee elected to Membership.

The Constitution and By-laws as revised were formally submitted to the body and approved and ordered published by unanimous vote.

It was moved by the Secretary that the existing agreement between the Medico-Legal Society and the Medico-Legal Journal he continued for Vols. 28 and 20 on the same terms and conditions as had previously existed between the Society and the Journal for previous volumes and that the officers of the Society be authorized and instructed to execute in writing the same upon the same basis and in all respects as the contracts previously existing between the parties.

The chairman of the Executive Committee read a notice relative to the International Prison Congress to be held at Washington and was duly instructed to name delegates to the same.

STILLMAN F. KNEELAND,
President,

B. J. DE VOLL,
Assistant Sec'y.
(*Medico-Legal Journal,* March, Number).

ACTIVE MEMBERS.

C. P. Marsh, 513 12th Street, Brooklyn, N. Y.
Dr. James W. Donnelly, Lotos Club, New York City.

HONORARY MEMBERS.

Dr. Victor Parant, Toulouse, France.
Dr. Fletcher Beach, M.B., London, England.
A. R. Turnbull, M.B., C.M., Edn, President Elect British Medico Pyych Assi., Fifie Kinrose Asylum, Cupan, Scotland.

CORRESPONDING MEMBERS.

Edward N. Brush, M.D. Supt., of Sheppard and Enoch Pratt Hospital, Towson, Maryland.
Dr. Charles W. Pilgrim, M.D., Supt. Hudson River State Hospital, Poughkeepsie, N. Y.

THE PROBATION SYSTEM.

By Clark Bell, Esq.

One of the most important factors in the elucidation of the problems of the "Probation System" with offenders will be "The new York Probation Association."

It was incorporated Jan., 1909, and has completed its year of labor, and published its first Annual Report.

Its Charter defines its objects to maintain homes for paroled offenders to encourage the development of the Probation System and the reformation of offenders to prevent crime.

Miss Maude Miner, a Probation officer appointed by District Attorney Chas Whitman, had opened Feb. 1908, Waverly House, as a temporary home for Girls and Women, held at the Night Court while their cases are under investigation.

She has been the moving spirit also in the new Association working on the woman and girl field. The works on the boy's and men's field is yet to find a leader like her.

The Board of City Magistrates, First Division, officially endorsed Waverly Home Feb. 28, 1908. Miss Miner reported that this home had shielded 300 girls held by the judges of the Night Court up to Sept. 30, 1909, and that this association had greatly aided in the detection and prosecution of Procurers Maquereau Cadets, and men living on the profits of Prostitution.

Ex—Judge Chas. F. McLean, Magistrate J. E. Corrigan, Frederick Kernochan, Hon. Thomas C. O'Sullivan, are members Hon. Chas, S. Whitney has accepted the Presidency of the Society. Homer Folks, President of the State Probation Commission, is one of the officers of the Association. The movement merits the support of every good citizen.

As to the merits of the Probation System in dealing with offenders which is now on trial, and to which the Students of criminology and penology are turning their attention research and study. We are seeking the views of competent observers.

Hon. Homer Folks, President of the State Probation Commission at the annual meeting of the Association said:

I believe fundamentally in probation, because I believe that evil is to be overcome by good; because coercion has failed to produce reformation; because the closer we get to offenders against the law, the more we seem to see of misfortune and the less of wilful misconduct; because prisons and penal institutions generally have failed to demonstrate any great capacity for usefulness and have demonstrated great capacity for harm; because I believe that the only way to train persons to profit by liberty is to train them while they are at liberty; because convinced that the probation system has come to stay, and is destined

to be an increasingly important feature of the State's system of dealing with those who violate its laws.

The extent to which probation has already become a working system may perhaps be a surprise to some of you. I doubt whether there are many, even in this intelligent audience, who appreciate the fact that during the year 1908 two thousand seven hundred and fifty-four juveniles and seven thousand six hundred and eighty adults were on probation in this State, a total of ten thousand, four hundred and thirty-four persons. This means that an average of about thirty persons per day, week days and Sundays, who had been convicted of offenses against the law, were released under suspended sentence, and under the supervision of probation officers. Truly a great responsibility rests upon those who introduced the system in this State and who favor its increased use, to do everything possible to ensure its efficiency. During the same year three hundred and twenty different persons acted as probation officers in various parts of the State.

Dr. E. T. Devine, speaking on the Probation System as to its merits says:

This is the first annual meeting of the New York Probation Association and we do mean an association of men and women who are seriously concerned about the introduction of that system of discipline and reformation, which we call probation.

Probation, as I understand it, is a method of discipline and reformation after conviction, under a suspended sentence in lieu of imprisonment in a prison or workhouse. It is not as some have thought in their haste, a mere means of discharging the prisoners whom it is convenient or we wish to discharge. Probation is serious—a means of influencing the lives of people who have offended against the law, and who have been found guilty of some definite offence. It is intended seriously, as a means of discipline, quite as much as the prison or the reformatory, or a disciplinary fine.

Now, it has some advantages over imprisonment. In the reports of the State Probation Commission it is stated that to maintain 7,000 prisoners, which on an average are in our State prisons, costs the State every year something like a million and a quarter dollars, and that to maintain and care for the ten thousand and odd prisoners who are in our Country penitentiaries, and local prisons, costs something like a million and three-quarters, or a total for both those classes of something like four million dollars to care for people who are punished by incarceration. This is a very large item of expense. It costs the State (quoting from this same source of information) to care for between seven and eight thousand probationers, about sixty-two thousand dollars. It would be much better if the State had spent a larger sum. But, suppose that were doubled, and we had spent a hundred and twenty-five thousand dollars, in really doing all that ought to be done for the people who are placed on probation, it would have been evidently, so far as this seven or eight thousand persons are concerned, a more economical method of accomplishing the discipline, the mere reformation, the oversight, the punishment—if you choose to call it that—which the State deems it necessary to impose.

There are a number of other economies resulting from the substitution of the probation for the prison system. It is impossible when a man is in prison to earn money, and support his family. It is essential that he should. It is much more economical than shutting him up in prison, and cutting off his income.

It is also impossible, if your probationer is a child, a young person, to instil in him, as a result of your probation officer's oversight, certain habits of industry and to prevent his developing certain habits of an anti-social character, and that, if you think of it, is a very important economy, a very excellent means of accomplishing your result.

Hon. Chas. S. Whitman has had a large experience as a Magistrate in dealing with crime and offenders. His views are, therefore, more valuable than many others, of the students of the Abstract principles and questions involved.

In his address as President of the New York Probation Association on November 30, 1909, he said:

The question of probation for prisoners, at least for various forms of crime, is still debatable. There are a great many times when sitting as a magistrate or as a judge, one feels that probation is a failure and that it is anything but desirable for prisoners of certain kinds. And yet, an honest man with any heart, who studies the record of the cases where prisoners have been released on probation, must come to the conclusion that the opportunity offered the judge to use his discretion is infinitely better than the old system of imposing penalties which are absolutely prescribed. The probation system with the proper officers—and after all it is the same old story—the system is just as good as its officers—no better—works incalculable good. There are a great many suggestions offered for the improvement of the system, some of which are good; but the probation system of New York City is a permanency. It is in its infancy, and it will be improved; it must be improved if it is going to do the work in this community which I can do under proper conditions.

The Jefferson Market Court building at Tenth Street and Sixth Avenue was erected long before the work had grown to its present proportions. The prison is too small, and the facilities exceedingly limited so that it is impossible to take proper care of women and young girls who are committed day by day. In view of the fact that the prison is inadequate for holding women whose cases are being investigated, and that the extension of the practice of making careful preliminary investigation is so essential, we recommend that a Municipal Detention House be established near the Night Court.

A vast number of men live on the shame of women whom they terrorize and keep under their control. Waverly House affords an opportunity for women of this kind to be cared for, protected and kept away from evil influences while their cases are being investigated or while the court or those interested may be able to help them.

It is for this kind of work, among others that those interested in the Probation Association plead, and feel that they have the right to ask men and women, who are charitably inclined and anxious to help along movements that tend to the improvement and development of the city, to take part in this important work. It means not only the improvement of conditions, but the help of the down-trodden and lost—the help of the weak and the criminal. For of all the people, of all criminals who come into our courts, the cases that do seem hopeless, the cases that do appeal to any man of ordinary intelligence and heart, are the cases of these women, many of them little more than girls, who are taken from our streets and brought into our courts. It is very little that the law courts can do and very little that the court can do for them. It can send them to the Workhouse, but it is the result of my experience that most of them come out worse than they go in. Imposing a fine simply adds to the hardship. If this kind of reform work, which is practical, which provides a temporary home until work can be obtained and which takes them away from evil influences, can be helped and sustained, and made a real institution of power in New York, we have done something at least toward helping to solve one of the gravest and most difficult problems connected with the life of a great city.

CHARLES S. WHITMAN.

THE INFLUENCE OF MIND ON LONGEVITY.

By T. D. Crothers, M.D., Hartford, Conn.

In the reminiscences of the late Sir Andrew Clark of London, England, he asserts that he never treated a person over sixty years of age who was profoundly pessimistic that recovered.

He argued from this that the continuance of life and the prevention of disease in old age was more largely due to the mental condition than to many other factors.

This is within the observation of everyone, and recent research shows that the mind, or the mental forces of the body when active are great antagonistic powers to degeneration and death. A man in the last stages of pneumonia, or other diseases who has buoyant confidence of recovery will be far more likely to live, than one who has lost all hope for the future.

There are many reasons for believing that we carry around with us great reserve powers and unknown energies which are seldom used, only with great occasions, and that in old age appeal to these unused powers may give a certain vigor entirely unexpected which lengthens out life and practically overcomes disease.

Spinoza said that optimism and long life were synonymous and pessimism decay and early death were equally closely allied. Introspection and reflection of present conditions are always depressing, but where the mind is lifted up above the present and takes no account of the ills of the to-day, there is vigor and health.

The very old men are often persons young in years, whose age and decline have been precipitated by dread anticipation, harrassing cares and doubt. The troubles and sorrows they are expecting are brought home to them and become materialistic realities.

It is impossible to point out the exact effect of depressing thoughts, on the feeble energies which come from forebodings. We note the difference in health and vigor, between one who is deeply pessimistic and the other who lives in the sunshine of hope and faith.

The oft repeated statement that one cannot rise above the sur-

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*Read before the Medico-Legal Society May 18, 1910.

roundings and take optimistic views where the condtions are so adverse, is a grevious error.

One has simply to realize some of the hidden forces which he carries about with him, and how far he can make them contribute to his present and future life, and then make the effort, and the deepest pessimism will disappear, from the continuous desire, and effort to rise above it.

The best work in science, literature and the arts, is done by persons who realize that there are no limitations to mental force and power, but while the body becomes weak and worn with age the mind may grow brighter and stronger, from new conceptions and newer views.

The man past sixty and from that on to eighty ought to be at his very best, because there is no experiment in life then. It is a persistent, rational effort followed by success. He has attained a position where he can use all his powers to the best advantage.

He can see in the future what was cloudy before. He can overcome obstacles that were forminable with little or no effort. As the physical forces decline the mental powers should come into greater activity. One will offset the other.

In this as in everything else, there must be an effort and a consciousness of success, and a faith which grows brighter with each succeeding day. An optimistic old man is reaching out to the ideal and becoming more and more perfected. If he did not have a great load of heredity he would reach his allotted period of 100 years, and the best years of his life would be the last ones.

There is no theory in this. It is sustained by a great variety of facts which fortunately are becoming more and more realized as the years go by.

This article was contributed by the Schorlarly Editor of the Journal of Inebrie at the request of the Editor of this Journal as a contribution to the symposium of longevity and the relation of old age to useful work and will form a part of the essays on longevity which will also appear in Bell's Medico-Legal studies. Vol. IX shortly to be published.

HEREDITY AND AFFILIATION.*

By

STANLEY B. ATKINSON, M.B., J.P.

Honorary Member of the New York Medico Legal Society.—Honorary Secretary of the London Medico Legal Society.

The scope of "Medical Jurisprudence" is to review the science, the art, and the forensic value of such medical testimony as is pertinent in a Court of Law. Thus in this present matter, it is concerned with a very practical application of a principal of biology, namely the canon of Heredity. The final word has not been said upon this subject by Darwin, by Mendel, by Weissman, nor by Archdall Reid. Hence there can be no ground for surprise that the questions of scientific fact arising in this connection are not left solely by the Court for a jury to consider and determine; the facts adduced are compromised by certain presumptions of law which if at times seemingly not wise, are at least expedient—for it is admiittedly commendable public policy to assume, until the reverse has been established, that righteousness has been fulfilled, especially in domestic relations.

Apart from the indefinite limitations of expert testimony, evidence of collateral facts cannot, as a rule, be received in a Court of Law. Where, however, a question of science is at issue, illustrations supporting the opinions of the expert witnesses may be given; thus, once prove as a matter of scientific fact that children are apt to inherit the general appearance and features of their parents, then as a matter of course, evidence will be received of personal resemblance between the party in question and the alleged parent.

An early historian records the fact that Father Adam "begat a son in his own likeness, after his image." Since then dramatists and novelists have applied frequently, and with telling effect, the fundamental biological principal enunciated in that primitive statement. Notably did Shakespeare hold as 'twere this mirror up to Nature in the Winter's Tale (Pauline, Act ii, Scene 3) and Leontes, Act v, Scene 1); in King Henry IV, Part 1 (Falstaff, Act ii, Scene 4); and in King John, (Act i, Scene 1.)

How far may these personal resemblances between individuals be admitted as positive evidence of their blood relationship? In a Court of Law the question is asked usually in reference to disputed paternity; it would also be a pertinent inquiry in the elucidation of such problems as perplexed both Electra, when furnished with incredible news of her long lost brother, brought fresh from Agamemnon's tomb; and also the judicial Solomon, when confronted with the clamant mothers. It may be suggested that in the last instance, the real motive of appeal was to disclaim the overlain illegitimate babe rather than to claim the living infant, for it was a shameful thing in a Hebrew so to be forgetful of her maternal duties as to overlay her offspring.

What is the value of physical or mental likeness in deciding cases of affiliation, using that term in its widest sense? The negative absence of such similarity goes for nothing; if the alleged resemblances are slight, they may be merely fanciful or co-incidental. But if a positive presence of similarities is marked they may be regarded as a probable, practical, and *Prima Facie* proof of paternity, increasingly so they are continued and accentuated as the life of the child expands. In all cases, however,

*Read beore the Medico-Legal Society of London, October 20, 1908.
*Read before the Medico-Legal Society of New York May 18, 1910.

care must be taken not to be misled by sporadic examples of recessive ancestrialism, or by the effects of abnormal *intra uterine* environment. William Harvey had noticed that "the moles, warts and cicatrices of the progenitor are sometimes repeated in the descendant after many generations." Junius hints at the royal extraction of the Duke of Grafton: "You have better proofs of your descent, my Lord, than the register of a marriage or any troublesome inheritance of reputation. There are some hereditary strokes of character by which a family may be as clearly distinguished as by the blackest features of the human face. At the distance of a century we see their different characters happily blended in your grace. "Historians have dealt similarly with the old Pretender."

The Lawyer says: *"Pater est quem justae nuptiae demonstrant."* It is legal presumption that, apart from divorce proceedings where the husband is the petitioner, a child is to be regarded as having been conceived legitimately when it is born to a wife whose husband, during the period necessary for the inception of normal gestation, has been capable of "generative access," and has not suffered "inability from a bad habit of body," that is, is not sexually impotent. The ability of access is a matter for the Justices to decide. Non-access being proved, resemblances in person might be of *primae facie* value in determining paternity. With illegitimate children, although a bastard may be fixed by law for its maintenance and education upon a putative father, the latter does not thereby become its parent, for he is still in law "a stranger in blood," the mother alone standing in loco parentis to the "nobody's child."

It is notorious that lawful children occasionally are born bearing a striking similarity, in physical conformation or in color of hair to a friend other than the husband, of the mother. Most of these assumed likenesses are exaggerated coincidences. Some have been explained by one parent having a private or cured deformity of a clandestine habit of dyeing the hair. Others, as with Mrs. Judge Jenkins' twins, are among the "sad" things of which it can only be said, "It is . . . but hadn't ought to be." Seldom do these instances gain the publicity of a Court of Law, for the parties concerned agree that the game would not be worth the scandal; further, the alleged influence of "maternal impressions" is still as unsettled as when Persina the Ethiop queen, after gazing at a picture of Perseus and Adromeda, begat "a faire white child," and as when Jacob so practically applied the theory at Laban's expense.

There are both biographical and jurisprudential objections to the admission of arguments based upon the presence in the child's body of signs which are the alleged consequences of "maternal impressions." It matters not whether the mind or the body of the mother was impressed, in the former case or a longing in the latter case,[1] by an injury or a process of telegony. There are a few recorded cases where a child is said to have resembled the deceased or long-absent husband or his very present brother![2] Biologically considered, the vital play of the complex ancestrian forces of heredity is finally fixed at the time of conception. When the ovum has been fertilized, the plan of the potential adult is as clearly plotted as would be the case if the homonculus theory of generation, satyrized in "Tristram Shandy" (1759), was correct. Apart from heredity, congenial characters may be acquired by the foetus in *utero* by forces which may properly be classed as environmental; similarly, variations in the income and habits of life of the husband will influence the pregnant wife's environment. All congenital appearances are not the result of heredity; but an abnormal effect upon the foetus alleged by the mother to be caused by an external accident or an internal yearning (as in the case menioned by Chaucer in the "Marchand's Tale"), must be examined very critically.

The lay interpretation usually can be rejected, as a mere coincidence magnified into a popular fallacy. The unscientific mind, preferably credits the wonderful and sensational, even if the "explanation" patently is based upon a *sit propration voluntas* argument. An instance of this was

recorded by the writer in 1901.[3] William Smellie recorded a case of maternal impression alleged to result from the pregnant mother witnessing the execution of Lord Lovat. Erasmus Darwin was told by William Hunter, however, that in his prolonged obsetrical experience he had never known a fulfilment of a parturient mother's prophecy as to an anticipated abnormality in her child, though frequently an actual deformity in a newly born babe had served to recall or to accommodate a remarkable parental occurence. Bishop John Jewell, in a letter written in 1526 to Bullinger of Zurich referring to the continued inclemency of the weather says: "As a result of this plague infant prodigies are born, some without heads, others with the heads of monsters, others without limbs, others mere living skeletons."

Great care and caution is necessary in listening to a woman who desires to affiliate her child to a desirable but possible innocent man, who happens to be at hand and formed or deformed similarity to her child. Some other person in the wide world is almost certain to resemble more or less closely 'or to "double" any given individual. It is recorded that a king enquired of a courtier who strongly resembled him in person: "Was your mother ever at Court?" "No, sir, but my father was," came the ready response.

Forensically, the reception of medical testimony as to events in an antenatal biography would admit matters far too conjectural, capricious, and co-incidental to be trustworthy; and often would necessitate a very full discussion by "eminent medical experts" of the disputed facts and the rival theories concerning impressions and the hidden workings of heredity. There is a curious extension to which actions of law upon alleged antenatal injuries might lead if once allowed. A child might sue its own parents for a congenital pathological condition which probably was due to the previous iniquity or carelessness of the father, or of the mother, or of both. As a result of such misadventure the child might complain that it was prevented from starting its life in this world with a sane mind and a sound body.[4] Cf, Ibsen's Ghosts.

Physical resemblance may be urged in proof of kinship; to substantiate a peerage succession claim; to legitimize a doubtful heir; or to affiliate a child born out of wedlock. The facts of the last are not settled by a jury but at petty or quarter sessions, and the matter is usually one of the Poor Law; it is notable that a bastardy order may be issued provisionally before the birth of the child. The solution of several subsidiary problems may be aided by a consideration of these matters; parental sterility may be probed; the parentage of a supposititious child may be revealed; the possibility of alternative paternity (as with *jus pramae noctis,* Deut. xxv., v 4-7, and the sorting out of children related in Herodotus, Book 4, of 15 J.P., 408), or superfecundation, (as with one black and one white twin or the famous denial that the defendant, "was the father of the said twins or either of them") may be exemplified. In 1773 it is stated that a certain Bishop was affiliated to two fathers by decree of the Parliament of Montpellier and by the Medical Faculties of Paris and Montpellier; his mother was a three months' widow when she married, four months later he was born. An argument may be obtained to indicate the probable defendant in an action for seduction (that is, "loss of services" during pregnancy and beyond), or to fix the offender in a charge under an amended criminal law amendment act.

In bastardy proceedings, since 1835, "if the evidence of the mother be corroborated in some material particular by other evidence," she is likely to be successful in "swearing her child" to a putative father (35-36 Vic., c. 64, s. 4). Such "corroboration should be of the facts which lead to the inference that such a man is the putative father of the child" (Bramwell B., in 1860 Hodge v Bennett) and is usually *viva voce* evidence of some person other than the mother as to the time and place of *familiarities* and the person with whom. Personal resemblance might be thought to be confirmatory testimony of the mother's statement, since it

is not necessary that "the material paricular" should be fortified by the evidence of a direct witness of the original act. Even when the child has been produced in Court (as is allowed in the States of Iowa, North Carolina and Massachusetts), common experience proves that many of the details of similarity between parents and newly born child exists only in the eyes of the former; they are not patently evinced until the child has passed the anniversary, which nullifies, in this country, the mother's right of action against the alleged father (Johnson v. Walker, 109 American State Reports, p. 733.) Where the resemblance is very marked, owing to the presence of a definite rare deformity, or to an ethnological peculiarity, this form of *Prima Facie* testimony may have to be weighed and interpreted by the Court. Instances of actual deformities are the prominent mandible of the House of Hapsburg,[6] heriditary hypospadias, polydactyly, and syndactyly upon which last, in 1903, an affiliation case was based in Jamaica. An ocacsional event, at a seaport or a dockyard town, is for a negro lodger to be succeeded in due time by a mulatto baby. Mrs. Elizabeth Cellier, the polemical mid-wife, is recorded as having entertained about the year 1660, an Italian and his negro servant with the result that she was "delivered soon after of a tawny faced boy." In 1731 it was held at Petty Sessions that such a child could not be the offspring of a putative English father.[7] In 1849 (Pieris v. Pieris, 13 Jurist, p. 569). however, Lord Campbell, interjected *obiter;*—"So strong is the legal presumption of legitimacy, that, in the case of a white woman having a mulatto child, although the husband is also white and the supposed paramour black, the child is to be presumed legitimate, if there is any opportunity for intercourse." This statement savours somewhat of the principal of possible unearned increment adopted in the year book for 1406 (7 Henry Fourth, iv., 913): "Who that bulleth my cow the calf is mine." Where negroes abound this mulatto test has numerous applications (Whiterlos' case; Cross v. Cross, Paige Ch., N. Y. 139.) With twins, separate affiliation orders are advisable; if they are not true twins, they may perhaps, afford an opportunity of demonstrating in a Court of Law a rare case of superfecundation.

There are a few reported cases where evidence as to personal resemblances, between the living and the dead has been allowed in proof of consanguinity.

In the Douglas Peerage case (1767) Lord Chancellor Camden said: His complexion, the color of his eyes and his hair, prove that he was not hers," that is Madame Mignon's. Lord Mansfield, Lord Chief Justices of the King's Bench stated, "Many witnesses have sworn to Mr. Douglas being of the same form and make of body as his father; the finished model of himself;" "the exact picture in miniature of his wife;" "it seems Nature had implanted in the children was not the (alleged) parents;' "among the eleven Black Rabbits there will scarce be found one to produce a white one;" "I have always considered likeness as an argument of a child's being a son of a parent, and rather as a distinction is more discernible in the human species than in other animals;" "a man may survey ten thousand people before he sees two faces perfectly alike, and in an army of one hundred thousand men every one may be known from another." "If there should be a likeness of feature there may be a discriminancy of voice; a difference in the gesture; the smile, and various other characters; whereas a family likeness runs generally through all these; for in every thing there is a resemblance, as of features, size, attitude, and action." Thus early was the fact recognized that the expressions of the activities of the central nervous system is governed by hereditary influences; to-day we may lay stress upon the temperament; the conformation of the ear; finger prints, handwriting and an examination of the outlines of the bony structure with the aids of the X-ray. To these items of comparison, hereditary deformity and transmitted disease should be added.

In Day v. Day (1784) where the mother of the defendant swore to the

identity of her son, Mr. Justice Heath, displaying as is alleged by some an ignorance of the law of evidence, said: "I do admit these resemblances are frequently fanciful, and therefore you should be well convinced it does exist; but if you are convinced it does exist, it is impossible to have stronger evidence."

The case of Routlege v. Caruthers, (1811) is cited by Erskine, (Inst. 154) to the effect that evidence of the child's resemblance to an adulterer was rejected, although it was offered in corroboration of other circumstances.

In Morris v. Davis (1837), a witness deposed that child (born five years after the husband and wife had voluntarily separated) and the husband were "As like as two candles." The Court made no subsequent reference to this matter.

In the State Trials (12 How. 1198) James Percy, claimant to the Earldom of Northumberland, is stated to have been born with the same marks on his body "As other Percys have been;" in the Townsend Peerage case (1843) testimony of alleged resemblances was given by a schoolmaster.

In Baggot v. Baggot (1878) the question arose where the testator was alleged to have had a delusion that his son was not his issue, and thereupon disinherited him; the case was taken to an appeal but this matter of fact was not further considered.

Consideration of these forensic contests convinces one of the wisdom of the injunction of the Code Napoleon: *La recherchede la paternite est interdite*—for not only is it a wise father that knows his own child, occasionally, it is a wise child that knows his own father.

A short discussion followed in which Earl Russell, Dr. J. Scott, Dr. Oppenheimer and the learned President took part.

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A PLEA FOR CORRECT THINKING.*

Inaugural Address

By the Hon. Mr. Justice Walton, President of the Medico-Legal Society of London.

Someone has said of Lord Bacon that he wrote about science like a Lord Chancellor and the criticism, I presume, was not intended to be complimentary. When members of the legal profession venture to take part in the discussion of any subject which is not strictly within the range of their professional interests it is an easy, and appears to be an unfailing argument against them to say that they deal with the subject from the lawyer's point of view. As you have done me the honor to elect me once more to be the President of your society, and it becomes my duty on this occasion to deliver an address, I propose to take the opportunity of saying a few words in support and justification of the lawyer's point of view. If I were to describe my subject somewhat more explicitly I should call it a plea for right thinking and correct expression. In these days of telephones and motor cars and record ocean passages of marvellous rapidity, when obstacles of time and space appear to be almost annihilated, it sometimes seems as if there were no room left in the transactions of mankind for thought or, at all events, for deliberation. Logic has become a despised study. Not long since, during a discussion upon the subjects to be included in a course of studies, when it was suggested that logic should be one of them I heard a very eminent person ask why should young pople be taught an elaborate process for doing that which every man endowed with the use of reason does for himself without teaching. But is the habit of correct thought so universal? When we seek for enlightenment from those who so willingly offer and, indeed, compete to instruct us morning and evening, weekly and monthly and quarterly, upon politics and economics and upon the fascinating theories of the most advanced science, are we always quite sure that our instructors mean exactly what they say or know exactly what they mean? I am afraid that the lawyer, the reader whose mind has to some extent been shaped by the old-fashioned discipline of legal study and practice, cannot help asking with tiresome reiteration what is precisely the question raised? What is the exact proposal advocated? What is in plain terms the theory or proposition that is supported. His questions are, I fear, often received with impatience and derision. He is behind his time.

If it s the chemist, astronomer, or the biologist or the anatomist, or physiologist who protests against the interruption of research by a priori arguments, everyone must of course sympathize and agree with him absolutely and without reserve. Assuming as I think we must that an external universe of which we ourselves form part does in fact exist, its phenomena, its elements, and its objective nature can be known to us only by observation. Of the work that has been done in the past and still more of the work that is being done at the present time by the observers of nature as it discloses itself to them in the heavens above and the earth below of their patience, their accuracy, their skill, their insight, I can only speak with the humblest respect and admiration. And again of the practical application of the knowledge acquired by observation in all the various departments of natural science there, is for the purposes of this address , nothing to be said except in a spirit of wonder and thankfulness. It is only if, and when, the student

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Delivered at Medico-Legal Society of London October 20, 1908.
Read before the New York Medico-Society May 18, 1910.

of nature ventures beyond the ultimate limits of the observation and analysis of facts into inferences as to that which cannot be dissected and which cannot be analyzed, and cannot be seen or weighed or felt, which is from its nature, beyond the range of the most perfect instruments and apparatus of the laboratories that the lawyer-like instinct begins to prompt enquiries which in certain quarters are not unlikely to be resented as pedantic and out of date, as narrow minded and unintelligent. But it is not questions or controversies of this kind that I have in my mind this evening. I am thinking rather of these practical theories affecting human life and conduct which, if approved find shape and effective force in Acts of Parliament. In referring by way of illustration, to particular enactments or proposals I am desirous to avoid even the appearance of taking a side. We have seen recently very important legal and social, or economic changes brought about by legislation. "The Trades Disputes Act" and "The Old Age Pensions Act" are instances which will occur to everyone. We are, perhaps, within sight of legislation of the greatest importance and far reaching consequences relating to the poor, to the unemployed and to other matters of social and economic interest. I might, if there were time, refer to other subjects upon which there has been or is likely to be legislation and in which this Society has a more direct and special interest. On all these social questions we read a vast number of articles and essays and speeches. There is no end to the variations upon phrases and catchwords which are perhaps, becoming somewhat tedious by repetition. It is because I am old-fashioned and not sufficiently modernistic and too much of a lawyer, that upon all these subjects I crave for greater clearness and deliberation of thought and greater accuracy of expression, that I cannot help asking myself again and again what precisely do these good people who are working so hard and so zealously for the welfare of their fellow creatures mean? What is it in reality and in common fact that they are aiming at? I have said that I would endeavor to say something to justify the lawyer's point of view. What is the point of view? What is the experience and discipline that is peculiar to the lawyer? Will you excuse me if I dwell for a few minutes on what may be called "shop?" It will be for a few minutes only. Our law it is scarcely necessary to state, consists of certain general rules. And although it is sometimes extremely difficult to apply these rules owing to the complexity and endless variety of the facts, the rules themselves are very clearly and strictly defined. A man has suffered some loss or damage through the act of another. He has no legal remedy unless he can show that he has a cause of action recognized by the law, and every cause of action recognized by the law is strictly defined. The same is true of crimes which are accurately defined. No man can be convinced of an offense unless it is proved that he has done something which falls within the definition of some crime known to the law. When a case is tried by judge and jury if the facts are in dispute they must be ascertained by the verdict of the jury. The law is scientific. It realizes that facts can be known only by observation. The jury must therefore learn them from those who have observed them—that is to say from the witnesses—for witnesses can speak only of that which they have themselves seen and heard. While the facts have to be ascertained by the jury it is for the judge, and for him alone, to say what the rule of law is and whether the facts so ascertained fall within it. Although cases may now be tried by a judge alone, who has to decide questions both of law and fact, the long tradition of trial by jury has (in the common law courts more especially) established very clearly and very usefully the distinction between law and facts. The questions which the tribunal asks of the party befort it are (1) What is the general proposition of the law upon which you rely? (2) In such proposition sound? Does it correctly state the rule of law? (3) What are the facts? (4) Do the facts bring the case within the proposition of law relied upon?

I suppose we all of us are apt to exaggerate the merits and advantages of the profession to which the best part of our lives have been devoted. But am I not to some extent justified in venturing to suggest that the lawyers experience in the practice of his profession affords a discipline which may be very valuable in dealing with the larger questions which are involved in the regulation of human society and in the administration of the aaffairs of the state?

The lawyers special point of view arises from the habit of in the first place distinguishing fact from theory or general rule; of ascertaining facts exactly and by a careful examination of the best evidence and of considering the relation between the facts ascertained and the theory or general rule.

May I hope that in the discussions of our Society it is a fortunate thing that lawyers and medical men are associated, and may I venture to think that for certain purposes and with certain qualifications perhaps it may be useful sometimes to look at things from a lawyers point of view.

MEDICO-LEGAL SOCIETY OF LONDON.

By Clark Bell, Esq., LL.D.

This society has just issued its transactions for the years of 1908 and 1909 as volume six of the Transactions of the Medico-Legal Society, edited by Digby-Cotes-Preedy, M.A., Emmanual College, Cambridge, of the Inner Temple and Oxford Circuit, Barrister at Law and William A. Brenn, M.A., M.B., B.C.S. of the Inner Temple, Barrister at Law, Examiner in Forensic Medicine in the Uniersity ovf Edinburgh and Lecurer on Forensic Medicine Charing Cross Hospital. The following is the list of officers of the London Society as announced in this volume:—

President, Sir John Tweedy, LL.D., F.R.C.S.
Vice-President, Sir W. J. Collins, M.P., M.D., F.R.C.S.

Prof. John Glaister, M.D.	A. J. Ram, K.C.
E. Marshall Hall, K.C.	Earl Russell.
Frederick Hewitt, M.D.	James Scott, M.B.
Prof. J. Dixon Mann, M.D., F.R.C.P.	Prof. Harvey Littlejohn.
Henry O'Neill, M.D., J.P.	F. J. Smith, M.A., F.R.C.P.
John Troutbeck, M.A., B.C.L.	The Hon. Mr. Justice Walton.
R. Henslowe Wellington.	W. Wynn Westcott, M.B.J.P.

Hon. Treasurer, Walter Schroeder, Telegraph Hill, Hampstead, N. W.
Hon. Secretaries, Digby Cotes-Preedy, M.A., 2 Eln Court, Temple E.C.
W. A. Brend, M.A., M.B., 14 Bolingbroke Grove, S.W.
Council:

Stanley B. Atkinson, M.B., M.P.	Hubert Sweeney.
Hubert E. J. Biss, M.A., M.D.	F. S. Toogood, M.D.
J. Howell Evans, M.A., F.R.C.S.	W. H. Willcox, M.D.
G. C. Gardiner.	C. H. Wise, M.D., J.P.
Douglas Knocker.	

Hon Auditors, B. H. Spilsbury, M.B.
M. Wimpfheimer, LL.B.

The same volume contains a list of the members of the society and their addresses and the following list of honorary members:—

Clark Bell, LL.D., New York.	Professor Kolisko, Vienna.
Professor Constant, Paris.	Professor Lesser, Breslau.
Professor Dabout, Paris.	Professor Lombroso, Turin.
Professor Dausset, Paris.	Professor Strassman, Berlin.
Professor Ferrai, Medena	Professor Thainst, Paris.

It also contains the inaugural address of its late president, Hon. Justice Walton, delivered before the society on the 20th of October, 1908, which will appear in the current number of this volume, and other articles selected from the transactions of that society at the sessions of October 20th, 1908 to July 27th, 1909, which will later appear in the Medico-Legal Journal.

MEDICO-LEGAL SOCIETY OF FRANCE.

BY CLARK BELL, ESQ., LL.D.

The Medico- Legal Society of France has issued Vol. 5, second series of its Bulletin for the years 1908 which has just reached us in May, 1910. The officers of that Society for 1908 were as follows:—

President:—GEORGE ROCHER, an advocate of the Cour de Appel of France.

Vice-President: MR. LEREDU, an advocate of the Cour de Appel of France, and Dr. M. E. Socquet, an officer and member of the Society since 1884.

Secretary-General:— MR. CHARLES CONSTANT, an advocate of Cour de Appel of France.

Secretaries of the Session:—DR.. MARCEL BRIAND, Medical Superintendent of the Asylum of Ville Juif (Seine) and Dr. GRANDJUX, a prominent physician if Paris.

Treasurer:—DR. LEBRUN, a physician and also licensed in Law.

Archivist:—DR. GEORGE BROUARDEL, of the Faculty of the Medical Hospital of Paris.

The permanent commission is composed of Drs. Motet, Professor Dr. Maygier, of the Facutly de Medicine, Dr. George Thibierge of the Medical Hospital (Broca), Prof. Dr. Balthazard, Professor or Legal Medicine, Prof. Dr. Thoinot, Chief of the Medico-Legal Laboratory of Paris and member of the Faculty of Medicine, Judge Albanel, Judge of the tribunal of the Seine, Mr. DUBOST Counsellor of the Cour de Appel, and HENRY ROBERT, an advocate of the Cour de Boulevard.

This Society has also inaugurated a council composed of six members who have charge of all matters relating to discipline and charges against members composed of DRS. MOTET, LAUGIER, DEMANGE, and LE POITTEVIN. The Committee of publication is composed of DRS. BRIAND, GRANJUX, G. BROUARDEL, LEBRUN, *and* F. DECORI.

This Bulletin contains the Statutes of the Society as modified to that date; a list of the active members of the Society; of its foreign corresponding members, and a list of the corresponding members in the various cities and universities and Courts of France. This Bulletin also contains the proceedings of the 13th of January, 1908, at the time of the installation of the officers of the society for that year by Dr. Laugier, on the occasion of his retiring from the Presidency of the Society and introducing his successor Mr. Rocher who took the chair and made a brief inaugural address which we hope to be able to reproduce in the current number of this Journal. The Volume is a large Volume of 362 pages, by far the largest issued by the Society in recent years and which was referred to a committee of the Medico-Legal Society for examination and report at the May 1910 meeting, composed of Clark Bell, and Judge Wm. H. Francis.

We greatly regret not to have recieved this valuable contribution to the literature of Medical Jurisprudence at an earlier date. It contains very many articles to which the attention of the Medico-Legal Society will be called and extracts of which will appear in the forth coming volume of the Medico-Legal Journal.

The very interesting case of Janne Weber, occupies a very large space of 130 pages of this interesting Volume.

The foreign Corresponding Members are announced in this bulletin as follows:—

Clark Bell, Esq.

Dr. Darnazio, at Bahia, Brazil, S. A.

Dr. G. Filomusi Guelfi, Prof. Legal Medicine at Medico-Legal Institute of Pavie.
Dr. Girolamini, at Rome.
Dr. de Grosz, at Budapest.
Dr. Larondelle a Verviers, Belgium.
Dr. Minovici, at Bucarest.
Dr. Moreau, of Charleroi, Secretary of the Medico-Legal Society of Belgium.
Dr. Ogston Francis, at Bruxelles, Belgium.
Dr. S. Ottolenghi, President, Medico-Legal Society of Rome.
Dr. R. Pacheco, Medical Jurist of the Faculty of Paris, at Buenos Ayres, Argentine.
Dr. Pignat de Bellord, at Ceiba, (Honduras.)
Dr. Anselmo Pomar, Medical Expert at Terruel (Spain.)
Dr. Posado Arango, at Nouvelle-Grenode.
Dr. Sannicola, at Aversa, Italy.
Dr. Schoendeld, at Bruxelles, Belgium.
Dr. Steinberg, Valdener, at Copenhagen.
Dr. Stoenesco, Director of the Toxiological Laboratory at Bucarest.
Professor Fritz Strassman, of Berlin.
Dr. Tonino, at Turin.
R. Henslowe Wellington, Esq., General-Secretary of the Medico-Legal Society of London.
Dr. Zmigroski, at St. Petersburg.

MEDICO-LEGAL SOCIETY.

May Meeting, 1910.

The May meeting of the Medico-Legal Society was held at the Waldorf-Astoria in the City of New York on the eighteenth day of May, 1910.

In the absence of the president from whom a telegram was received announcing his absence in the West, Ex-President Clark Bell was called to the chair and presided at the meeting. Judge William H. Francis acted as Secretary.

The Secretary read the minutes of the March meeting, 1910, which was read as it was published in the Medico-Legal Journal and approved.

Mr. Bell submitted letters from foreign gentlemen accepting Corresponding Membership in the Medico-Legal Society.

The following persons were elected to active membership on the recommendation of Mr. Clark Bell:—

C. F. Marsh, of Brooklyn, N. Y.

Arthur T. Gillette, M.D., of Port Washington, New York.

R. H. Potter, M.D., 315 W. 97th street, New York City.

Fred R. Kruger, M.D., of Galveston, Texas.

Rev. Harry Gaze, of the New Thought Temple of Cincinnati, Ohio.

As corresponding members proposed by Clark Bell, Esq., LL.D., of which the following is a list:

Chief Justice F. A. Moore, Supreme Court of Oregon.

Hon. Wm. R. King, Associate Justice Supreme Court of Oregon.

Hon. Wm. A. McBride, Associate Justice Supreme Court of Oregon.

Hon. Woodson T. Slater, Associate Justice Supreme Court of Oregon.

Hon. Robert Eakin, Associate Justice Supreme Court of Oregon.

William R. White, M.D., D.L.C., LL.D., Professor of Forensic Medecine, King's College, Russell Square, London.

F. S. Toogood, M.D., Barrister at Law, Medical Superintendent of the Infirmary, Lewisham S. E. London.

Robert Reid Rentoul M.D., 78 Hartington Road, S. Liverpool, England.

C. Templeman, M.D., Dundee, Scotland.

The order of the evening was then taken up. The Hon. Gilbert R. Hawes, of the New York Bar, a life member of the Medico-Legal Society, read a paper entitled "The Torrens System of Land, Title Registration in its Medico-Legal Aspect.

Mr. Clark Bell proposed as Honorary Members:

Prof. Attilio Ascarelli, Secretary and Treasurer of the Medico-Legal Society, of Rome.

Dr. Tito Ferreti, General Secretary of the Medico-Legal Society of Rome.

Digby Cotes-Preedy, M.A., 2 Elm Court, Temple E. C., Hon. Secretary Medico-Legal Society of London.

William A. Brend, Esq., 14 Bolingbroke Grove, Hon. Secretary, Medico-Legal Society of London.

Earl Russell, Esq., Barrister at Law, 57 Gordon Square, W. C., London.

John Troutbeck, M.A., B.C.L., 21 Great Smith Street, London.

W. Wynn Westcott, M.B., J.P., 396 Camden Road, N. London, Vice-President London Medico-Legal Society.

Prof. D. G. Antonini, Member of the Medico-Legal Society of Rome, Italy.

Prof. Dr. Massoleni, Medico-Legal Society of Rome, Italy.

Prof. Dr. Ferrero di Cavallerleone, Medico-Legal Society of Rome.

Prof. Dr. S. Ottolenghi, President of the Medico Legal Society of Rome, Italy.

Sir John Tweedy, LL.D., F.R.C.S., 100 Harley Street, West London, President Medico-Legal Society of London.

Prof. Dr. Thoinot, Professor Medical Jurisprudence, Medical Faculty, Paris, France, Rue de Turnon 4.

Dr. Jules Voisin, of the Saltepeirre, Rue St. Lazare 23.

Dr. Tonino, of Turin, Italy.

Henry Robert, advocate of the Courts of Appeals, ex-President Medico-Legal Society of France, Boulevard Perrier 98.

Dr. Langier, Rue de Athens 10, Paris, France.

M. de Busschere, Counsellor of the Court of Appeals of Brussells, ex-President of the Medico-Legal Society of Belgium.

Dr. Soucquet, Boulevard St. Germaine 229, Paris, France.

Mr. Bell asked for a suspension of the by-laws calling for unanimous consent to suspend the by-laws to authorize a vote on the election; granted unanimously, and the Honorary and Corresponding Members were duly elected.

Mr. Clark Bell announced that since the last meeting he had received Vol. 6 of the Transactions of the Medico-Legal Society of London for the year 1908 and 1909 announcing the officers for the year 1908 which contained the inaugural address of he President, Hon. Mr. Justice Walton of the Supreme Court of England entitled "A Plea for Correct Thinking."

Mr. Bell spoke of the address in high terms and asked leave to have it read before the body. The address was then read by the Ex-President, Clark Bell.

Mr. Bell stated that the same volume contained an account of the third annual dinner of the London Society which was most interesting and as it was short he asked the leave of the Society to read it before this Society, which was granted, and the proceedings at the Third Annual dinner read at which the Hon. Justice Walton, then the President of the Body, took the chair, and at which the Master of the Rolls, Mr. H. T. Butlin, President of the Royal College of Surgeons, and a large company were in attendance.

The principal speakers were Sir Wm. Collins, M.D., F.R.C.S., M.P., ex-President, to the toast of "the Law and Medicine." Mr. H. T. Butlin; Mr. Justice Walton; Mr. J. S. Beale, to the guests and Mr. Digby-Cotes-Breedy, who responded to the toast of the Society.

Mr. Bell then introduced Mr. Harry Gaze, who read a paper entitled "Eternal Youth."

Mr. Bell then introduced newly elected member, C. F. Marsh, of Brooklyn, who read a paper entitled "Psychotherapeutics." The Memorial action upon the death of the late members of the body, Hon. David J. Brewer, of the Supreme Court of U. S. Hon. Edward T. Bartlett, late Judge of the N. Y. Court of Appeals, the Hon. Mr. Justice George H. Williams, late Chief Justice of the Supreme Court of Oregon Territory, Attorney General of the U. S., and Hon. Stanley B. Atkins on late Hon. Secretary of the Medico-Legal Society of London. Mr. Bell submitted in introducing his report upon the Memorial action, the action of the New York Court of Appeals as submitted to him by Mr. Justice Willard Bartlett, of that court by its direction to be presented to this Society. The tribute of Mr. Justice Irving G. Vann of that Bench with a letter from that great jurist and the actions of the Onondaga Bar which Judge Vann had prepared. A tribute from Mr. Judge John Clinton Gray, associate Judge of that court. A personal tribute by Mr. Bell, and Mr. Bell asked leave to submit other personal tributes which have been arranged for but not yet received, which he requests leave to include and embrace in the published transations.

Mr. Bell, as chairman of the memorial committee, submitted a brief biographical notice and sketch of the Hon. David J. Brewer, an honorary member of this society whom he had known for many years and asked that the same action be taken in respect to the memory of Judge Brewer

will leave to embrace such additional tribute as should be obtained by his associates or others before the publication of the memorial, which was granted.

Menorial action respecting the Hon. George H. Williams of the Supreme Court of Oregon and Ex-attorney General of the United States under General Grant's administration whom Mr. Bell had known intimately. And he read the letters of Senators from Oregon and the action of the Bar and Courts of that State upon the death of Judge Williams and asked leave to embrace in the publication such additional tributes as came into his hands which was granted.

In memory of the Hon. Stanley B. Atkinson of the Bar of London, late Hon. Secretary of the Medico-Legal Society of London. Mr. Bell paid a glowing tribute to the life character and public service rendered by Stanley B. Atkinson, both as a member of the Bar of London, as a fellow and able co-worker in the advancement of the science of Medical Jurisprudence, as a contributor to the department of forensic medicine, to the International Medical Congress held at Lisbon of which he was made an Honorary President. Mr. Bell stated that perhaps no single name on the roll of the members of the Medico-Legal Society of London has done more to bring that body into its present position and distinction than has Stanley B. Atkinson, who has been made an Honorary Member of this Society on account of his great attainments in Medico-Legal science and as a Medico-Legal Jurist. Mr. Bell then stated that in the last volume of the Transactions of the London Medico-Legal Society, an article, written by Mr. Atkinson, entitled "Heredity and Affiliation" and read before the London Society on the 2th of October, 1908, had been published in that volume, which it would be fitting to be printed entire as a part of our memorial tribute to this distinguished man and he asked leave to present it to this Society and to have it read as illustrative of his great ability. Leave was granted and the article was read before the body.

The question submitted in the notice of the meeting was then laid before the Society for discussion.

Mr. Bell stated that he had sent a copy of that question to the members of the Executive Committee of both bodies and the question submitted was as follows:—

"Shall the Joint Session of the American International Congress on Tuberculosis, and the Medico Legal Society, announced to be held in the City of New York in the fall of 1910, be held in September, or October, 1910, or postponed to another year, in view of the difference of opinion of eminent authorities as to the true relation of Human and Bovine Tuberculosis, and whether Tuberculosis is communicable to man through milk."

The following additional questions have been submitted to some of the leading scientists of the Medico-Legal Society and of the American International Congress respecting the Tuberculin Test and its use, which calls for action on the part of the Society in the opinion of those who believe it to be a great evil and a dangerous element and factor in the spread of the disease:—

Should the Tuberculin Test under any circumstances be applied by a medical man to a human being?

Is the meat or milk of any animal that has been submitted to the Tuberculin Test fit for consumption by any human being?

Can it now be demonstrated by science that Bovine Tuberculosis can be communicated from milk to man?

Discussion here followed.

CORRESPONDING MEMBERS.

AMERICA

Andrews, Hon. Charles B., Chief Justice Supreme Court of Conn., Litchfield, Conn.
Adams, J. Q., M.D., Passadema, Cal.
Allen, Judge Charles, Supreme Court of Mass., Boston.
Agnew, Hon. Daniel, ex-Judge Supreme Court of Pa., Beaver, Pa.
Allison, H. E., M.D., Supt. Matteawan State Hospital, Fishkill, N. Y.
*Austin, Prof. Peter Townsend, Brooklyn, N. Y.
Andrews, Hon. A. D., Police Commissioner, N. Y. City.
*Angell, E. E., M.D., Tarrytown, N. Y.
*Arnoux, ex-Judge William H., New York City.
*Abbett, Gov. Leon, of New Jersey.
*Baker, L. W., M.D., Supt. Home for Epileptics, Baldwinsville, Mass.
Buswell, C. F., Esq., Author Bushwell on Insanity, Boston, Mass.
*Bedford, Hon. Gunning S., ex-Judge Criminal Court, N. Y. City.
*Buckham, T. R., M.D., Medical Expert, Flint, Mich.
Bell, A. N., M.D., Editor Sanitarian, N. Y. City.
Baldwin, Hon. Simeon E., Justice Supreme Court New Haven, Conn.
*Buchanan, J. Rhodes, M.D., Los Angeles, Cal.
Baldwin, Prof. J. M., University of Toronto, Canada.
Brewer, Judge David J., Supreme Court of U. S., Washington, D. C.
*Brewster, Judge F. Carroll, Philadelphia, Pa.
*Bennett, Dr. Alice, ex-Supt. Insane Asylum, Norristown, Pa.
Bird, Vice Chancellor John F., Trenton, N. J.
Bean, Judge Robert S., Chief Justice Supreme Court of Oregon, Portland, Oregon.
Bohman, Judge B. F., ex-Chief Justice Supreme Court of Oregon, Portland, Oregon.
Benson, V. S., M.D., Supt. State Asylum for Criminals, Menard P. O., near Chester, Ill.
Buffet, E. N., M.D., Jersey City, N. J.
Burke, E. T., M.D., Fort Greene Place, Brooklyn, N. Y.
*Brower, Daniel R., M.D., 527 Jackson Bl., Chicago.
*Benedict, Judge Charles L.,U. S. District Ct., N. Y. City.
Brown, Judge Addison, U. S. District Ct., N. Y. City.
Blackmer, Prof. R. C., A.M., M.D., 6746 Waldemar Avenue, St. Louis, Mo.
Baralt, Prof. L. A., M.D., Havana, Cuba.
Bennett, T. J., M.D., Editor Texas Sanatarian, Austin.
Brown, Paul R., M.D., U. S. Army, Fort Hamilton, N. Y.
Billings, Prof. F. S., Grafton, Mass.
Bean, Prof. Dr. W. S., Clinton, S. C.
Bannister, H. M., M.D., Columbus Memorial Building, Chicago.
Barnes, Prof. Earl, Stanford University, Palo Alto, Cal.
Ball, Jas. Moore, M.D., Keokuk, Iowa.
Brevan, R. J., M.D., ex-Mayor, Charlotte, N. C.
Bullock, Dr., Wilmington, N. C.
Bryce, P. H., M.A., M.D., Sec'y Prov. Board of Health, Toronto, Ont.
Blake, Hon. Henry A., Blake, Montana
*Bleckley, Judge L. E., Chief Justice of Georgia.
Bartlett, Judge Willard, Supreme Court, General Term, 1st Depart., Brooklyn, N. Y.
Battle, Prof. Kemp P. Criminal Court of North Carolina.
*Beasley, Chief Justice of New Jersey, Trenton.
Bateman, Mesero Frederick, M.D., Norwich, England.
Batty, Wm. H., Chief-Justiec of California.
Beck, Wm. E., ex-Chief Justice of Colorado, Denver.
Blandford, M. A., Justice Supreme Court of Georgia.
Clark, Hon. George, ex-Judge Texas Ct. of Appeals, Waco, Tex.
Carus, Prof. Paul, Editor Monist, Chicago, Ill.
Clevinger, Dr. S. V., 70 State Street, Chicago, Ill.
*Carroll, A. L., M.D., N. Y. State Board of Health, New Brighton, S. I., New York.
*Curwen, John, M.D., Supt. Pa. State Insane Asylum, Warren, Pa.
Crothers, T. D., M.D., Editor Journal of Inebriety, Supt. Walnut Lodge, Hartford, Conn.
Cruttenden, F. C., M.D., Des Moines, Iowa.
Collard, Judge William E., Franklin, Robinson County, Texas.
*Clay, Hon. Cassius M., Louisville, Ky.
Cullen, Hon. Charles M., Supreme Court of Del., Dover.
Cullen, Hon. John, Chief Judge of New York Court of Appeals, Brooklyn, N. Y.
*Coues, Prof. Elliot, Smithsonian Institute, Washington, D. C.
Chaille, Prof. Stanford E., Tulane University of New Orleans, La.
Chittenden, Prof. R. H., Prof. of Chemistry, New Haven, Conn.
Coan, Titus M., M.D., 70 Fifth Avenue, New York.
Cleland, Prof. J. J., Clinton, S. C.
Coleman, P.'C., M.D., Colorado, Texas.
Comegys, Chief Justice Supreme Court of Delevan, Denver.
Corliss, Judge Guy C. A., Chief Justice of North Dakota.
*Daniels, Hon. Chas. H., Justice Supreme Court of New York, Buffalo, N. Y.
*Davis, N. R., M.D., Late Editor Journal Amer. Med. Association, Chicago, Ill.
*Draper, F. W., M.D., State Med. Examiner, Prof. Medical Jurisprudence, 36 Worcester St. Boston, Mass.
*Doering, Ed. J., M.D., President Chicago Med. Legal Society, Chicago, Ill.
Davidson, Judge W. L., Texas Ct. of Appeals, Georgetown.
Dunglison, Dr. Richard J., Philadelphia, Pa.
Deady, ex-Judge Matthew P., Portland, Oregon.
Dyer, Dr. Isadore, Tulane University, New Orleans, La.
Darrin, D. M., Esq., Counsellor at Law, Adison, New York.
Daniel, Dr. F. E., Editor, etc., Austin, Tex.
Davis, Hon. C. K., U.S., Senator from Minn., Washington, D. C.
Dayton, Hon. Charles W., ex-Postmaster, N. Y. City.
Desrosiers, H. E., M.D., Montreal, Canada.
Dean, Hon. John, Supreme Ct. of Penna., Hollidaysburg, Pa.
Dixon, Hon. Jonathan, Supreme Court of N. J., New Brunswick, N. J.
Depue, Hon. David A., Supreme Court of N. J., Newark, N. J.
Dickerson, S. Meredith, Esq., Trenton, N. J.

Dunglison, Dr. Richard J., Editor, &c., Philadelphia, Pa.
*Doe, Chief Justice of New Hampshire, Salmon Falls.
*Durfee, Chief Justice Supreme Court of Rhode Island.
*Earle, Pliny, M.D., State Supt. Insane Asylum, Northampton, Mass.
*Edwards, Landon, B., M.D., Editor Virginia Medical Journal, Richmond, Va.
Elsey, Prof. M. G., Medical College, Washington, D. C.
*Elwell, Hon. John J., Prof. Medical Jurisprudence, and Author, etc., Cleveland, Ohio.
Ewell, M. D., M.D., Prof. Medical Jurisprudence, and Author, etc., Chicago, Ill.
Elk, James T., M.D., Hot Springs, Arkansas.
Endlich, Hon. G. A., Reading, Pa.
Elliott, Byron K., Chief Justice Supreme Court of Indiana, Indianapolis.
Fraser, Hon. John J., Justice Supreme Court, Fredrickton, N. B.
Flower, B. O., Esq., Editor "Arenea," Boston, Mass.
Fisher, Judge H. C., San Angelo, Texas.
Fell, Hon. David Newlin, Justice Supreme Court of Pa., Phil.
Foster, Roger, Esq., 35 Wall Street, N. Y. City.
*Follett, Judge D., Presiding Justice Court of Appeals, 2d Division of New York.
Fenner, Chas. E., Justice Supreme Court of La.
Grey, Russell, Esq., of the Boston Bar, Boston, Mass.
Garrett, Judge C. C., Brenham, Washington County, Texas.
Garcelon, Alonzo, M.D., Lewiston, Maine.
Gildersleeve, Judge H. A., Supreme Court of New York City.
Goff, Hon. John W., Recorder, N. Y. City.
Green, Hon. Henry, Justice Supreme Court of Pa., Easton, Pa.
Guy, Hon. Charles L., State Senator, N. Y. City.
Gerdine, John, M.D., Athens, Ga.
*Gihon, Albert H., M.D., Medical Director U. S. N., (retired), Washington, D. C.
Gaines, Reuben R., Justice Supreme Court of Texas, Austin.
Givins, Joseph, Chief Justice of Iowa.
Grubb, Judge Ignatius, Supreme Court of Delaware.
Hanna, J. L., Esq., Editor Maryland Law Record, Baltimore, Md.
*Helm, Scott, M.D., Late Secretary Chicago Med. Legal Society, Chicago, Ill.
Hill, Gershom, H., M.D., Supt. State Insane Asylum, Independence, Iowa.
*Horsford, Prof. E., Prof. of Chemistry, Cambridge, Mass.
Hall, Prof. Stanly G., Clark University, Worcester, Mass.
Head, Judge James B., Supreme Court of Ala., Montgomery, Ala.
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The Society was Incorported June 20th, 1868.

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*Dr. Wooster Beach has presided at preliminary meetings prior to that date	
*Jacob F. Miller, Esq.	1869
*Stephen Rogers, M. D.	1870
Clark Bell, Esq.	1872-1873-1874
*Prof. Frank Hamilton, M.D.	1875-1876
*Hon. George H. Yeaman	1877-1878
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Only four Presidents now living

MEMORIAL ACTION.

HON. EDWARD T. BARTLETT.

CLARK BELL, ESQ:

Chairman of the Memorial Committee submitted the action of the New York City Court of Appeals, in response to the invitation he had sent to the members of that court relating to Judge Edward T. Bartlett, who had been Mr. Bells law-partner of the firm of Bell Bartlett & Wilson, at the opening of his professional career in the City of New York before his elevation to that Bench.

STATE OF NEW YORK,
COURT OF APPEALS,
JUDGES CHAMBER.

Albany, May 10th, 1910.

CLARK BELL, ESQ.,
Office of the Medico-Legal Society,
39 Broadway, New York City.

DEAR SIR:

The Chief Judge and Associate Judges of the Court of Appeals have recieved your courteous invitation of the 7th instant, to be present at the meeting of the Medico-Legal Society on the 18th of May to participate in the memorial action to be taken in reference to the death of Edward T. Bartlett.

As the court will not be in session at that time the Judges will be unable to avail themselves of the opportunity thus to express once more their appreciation of the character, ability and public services of their late colleague. They have asked me to notify you of their inability to be present for this reason; and in response to your request for a personal tribute to Judge Bartlett's memory to be read at the meeting they desire me to send you the enclosed copy of the memorial which was adopted by the court as expressive of their high estimate of their late associate and their regret at his untimely death.

Yours very sincerely,
WILLARD BARTLETT.

It is difficult to give adequate expression to the shock which the members of this Court experienced last evening upon learning of the unexpected death of their beloved associate Edward T. Bartlett. His illness had caused anxiety by reason of its sudden onset, but the prospect of his ultimate recovery seemed so favorable that we were utterly unprepared for the fatal outcome. Under these circumstances, we can do little more at this time, than to say a few words indicative of our personal grief and sense of loss.

Two elements stood out prominently in the personality of Edward T. Bartlett to those who knew him best: in his public life, his absolute devotion to the work of his high judicial office; and among his friends the remarkable lovableness of his character. As a Judge, in his attention to the arguments of counsel, his discrimination discussion and consideration of cases at the consultation table, and his promptitude and care in the preparation of the opinions assigned to him, he afforded an example worthy of the highest praise; and to those traits of judicial industry and fidelity were joined a personal attractiveness of manner and charm of demeanor that made his intercourse with his associates a continual source of pleasure and satisfaction. He was a man of positive

views without narrowness or bigotry; gentle as a woman, yet never lacking in strength; humorous without ever being cynical; and almost chivalrous in his ideals. He has died in harness; and assembling here to-day to proceed with the work to which he was so much attached, we cannot go on without paying this tribute to his memory

At the conclusion of the session on Thursday the court will adjourn to enable the members to attend the funeral services; and the Clerk will cause record of this action to be entered in the minutes, and a copy of the minutes to be transmitted to the family."

HON. EDWARD THEODORE BARTLETT.

Associate Judge of the New York Court of Appeals.

Judge Bartlett was born Skaneateles, New York, June 4, 1841, son of an eminent physician and surgeon; descended from Norman-French ancestry (Bartelot), an ancestor emigrated from England to New Hampshire in early Colonial days; great grandson of Josiah Bartlett, signer of Declaration of Independence and Articles of Confederation, and first Governor and Chief Justice of New Hampshire. He received a classical education, studied law at Skaneateles, N. Y., was admitted to the Bar in 1862; practiced until 1868 in Onondaga County, N. Y., removed to New York City in 1868 and continued in practice until 1894. He was a Republican nominee for Justice of the Supreme Court in 1891, defeated, but was nominated in 1893 and elected Associated Judge of the Court of Appeals of New York for a term of fourteen years from January 1st, 1894. He has been a members of the Association of the Bar ot the City of New York since 1870 and was formerly a member of its Committee on Administration and Executive Committee and he is a member of the Sons of the American Revolution, the New York Law Institute, the New England Society and the Union League and Republican Clubs of New York City. Judge Bartlett was of a character that is most admirably described by the expression that that Bench ordered his associate, Mr. Justice Willard Bartlett, to send to me as Chairman of the Memorial Committee.

He was most beloved by those who knew him best and most intimately.

He was the law partner of the editor of this journal at the opening of his professional career in New York City in the firm of Bell, Bartlett and Wilson, which did a large and most successful business and where he took charge of the trial of many important cases in the courts and was from the outset most successful.

His death was not expected and was a surprise to his associates.

STATE OF NEW YORK,
COURT DF APPEALS,
JUDGES CHAMBERS.

SYRACUSE, N. Y., May 11th, 1910.

MY DEAR MR. BELL:—

I thank you for your favor of the seventh instant inviting me to be present when memorial action is taken on the death of our mutual friend, Judge Bartlett. I am confined to the house by a temporary local trouble and shall not be able to accept your kind invitation.

I note your request to send a brief personal tribute to the memory of Judge Bartlett in case of my inability to attend the memorial exercises. At the request of the Onondaga Bar Association I prepared a memorial which expresses my views and I enclose a copy for your perusal. I tried to make it absolutely true and as I read it over this morning, I fear that in the effort to avoid extravagant eulogy, I have erred in the other direction and have not said enough in praise of Judge Bartlett's life and services.

Sincerely yours,
IRVING G. VANN.

Hon. Clark Bell.

Judge Bartlett was born in the village of Skaneateles in this county on the 14th of June, 1841. He came of distinguished ancestry. His father, Levi Bartlett, an eminent physician of the old school, spent fifty years of his life in the practice of medicine and through winter's storm and summer's sun rode the highways of Onondaga and Cayuga counties to relieve suffering and assuage pain, whether called by the rich or the poor and utterly regardless of material reward. His great-grandfather, Josiah Bartlett, was a noted man of his time, a member of the Continental Congress, a signer of the Articles of Confederation, the first to vote for and the second to sign the Declaration of Independence and finally Chief Justice and Governor of the State of New Hampshire.

Judge Bartlett received a classical education, studied law with Judge Jewett of Skaneateles, at one time Chief Judge of the Court of Appeals; was admitted to the Bar in October, 1862; practiced law in Skaneateles for several years as a member of the firm of Barrow & Bartlett, and in 1864 removed to Syracuse and practiced there for four or five years and then in the city of New York and became successively a member of the law firms of Bell, Bartlett & Wilson, Bartlett & Wilson, and Wilson & Hayden. He had a good practice in Syracuse and a large practice in the City of New York. He carried many important cases through the court of last resort, usually with success and always with credit.

He was identified with the movement against Tweed and his confederates and aided in overturning that reckless oligarchy of political criminals. He took part in other movements for reform with ability and success. Always a Republican in politics, but never a partisan, a member of the Union League, the Republican Club of New York City, and for several years its president, he was in touch with the organizations of the party, but never sought to become its candidate except for judicial office. Nominated in 1891 on the Republican ticket as candidate for Justice of the Supreme Court, he failed of election because his party was in a hopeless minority in the judical district where he resided. At the Republican State Convention held in this city in 1893 he was nominated for Associate Judge of the Court of Appeals and his election followed with a majority far in advance of his associates on the ticket. The bar of the State rallied around him with great enthusiasm. Many voters regardless of party ties, followed their lead and he became the champion of protest against tampering with election returns and overthrowing the will of the majority. He took his seat in the Court of Appeals on the first of January 1894, and sat there, having been unanimously re-elected in 1907, until the 29th of April, 1910. On that day, he sat in court and at consultation with his associates as usual, but when he closed his register after the day's work was done, he had finished his career as lawyer and judge. Three hours afterward he was seized with paralysis and lingering without pain or apprehension of death, died suddenly four days later. Yesterday, in the beautiful cemetery at Skaneateles, where the most of his kindred lie buried, amidst the songs of birds and the odor of flowers, his earthly remains found their last resting place.

Judge Bartlett had a kind and noble nature. Treating all with unfailing courtesy, cordial with men, chivalrous toward women and tender with children, he was beloved by all who knew him. Outside the sphere of duty, he never uttered a word or wrote a line that would wound the feelings of any one. He was a perennial spring of good nature, kind acts and gentle humor. His smile was a benediction, his wit enlivened every circle he met, and his kind acts reached many who did not know their source. Pure in heart, clean in action, just to all and generous to many, his life was an open book to be read without a blush, and to be studied with pride by all who respect and honor noble manhood.

For more than sixteen years he was a judge of the highest court in the State. During this long period of judicial service he prepared the opinion of the court in many cases of great intricacy and importance, and took

part in the decision of more than eight thousand appeals, involving life, liberty and untold millions of money. He voted in no case without careful, study and the exertion of his best judgment and ability. He was care ful, painstaking and conscientious judge, who frequently worked far into the night in order to master his cases and be able to render just judgments.

Among his prominent characteristics as a judge were industry, learning, good judgment, common sense, courage and a mind instinct with equity. While he regarded precedents, he did not follow them blindly, but took an equitable view when statutes and well established rules would permit. He sought to make the law more equitable and many a common law principle was relieved of harshness in its application to a particular state of facts by his ardent love of equity. He was not an ambitious writer, but his opinions were sound and clear. He aimed at righteous decisions, and not at brilliant reasoning. He often said that it is easier to write good grammar than it is to write good law, and while he did not neglect form of expression, he spent the most of his strength upon substance and in reaching a sound and just conclusion. He was as courageous as he was conscientious. He never voted for an expedient decision, but always for what he regarded as a righteous decision, and he voted just the same whether he stood alone or with the majority. Reason and argument might change his mind, but public clamor could not. He was steadfast as a rock in standing for what he thought was right.

Many judges have preceded him and many have sat with him on the bench, but among all the noted names there has been no one who has done his best more faithfully than Edward T. Bartlett. The Onondaga bar, conscious of his worth, proud of his useful career, and deeply lamenting his death, will always honor his name and revere his memory.

NEW YORK COURT OF APPEALS,

JUDGE CHAMBERS,
Albany, New York,
New York, May 13, 1910.

CLARK BELL ESQ:
Ex-President Medico-Legal Society,
MY DEAR SIR:—

I regret my inability to accept your invitation to attend the meeting of the Medico-Legal Society, to be held on May 18th in memory of the late Edward T. Bartlett, an Associate Judge of the Court of Appeals of this State. I should have been glad upon this occasion to testify to my profound respect for the memory of one, with whom I was so long in close association upon the Bench.

Judge Bartlett took his seat upon the Bench of the Court of Appeals in January 1894 and the record of his sixteen years of official work, contained in the volumes of the decisions of the Court, is an enduring monument to his industry and abilities. He served the people faithfully and ably. In the performance of his official duties he was closely attentive to the arguments of counsel and he gave to the cases the most careful consideration. His brethern upon the Bench found in him an associate, whose work in the Court was helpful and whose companionship was at all times grateful and cheering. The amiability of his charatcer, the liberality of his mind and the entire absence of malice in thought won for him lasting friendship. His uprightness in judgment; his outspoken contempt for chicanery; the directness of his thought impressed all who came in contact with him.

As the judge, his methods were characterized by thoroughness in investigations and by definiteness in conclusions. Apparently, he did not work with much ease, and he brought an immense amount of patience to the preparation of his cases. In consultation, he was clear and most scrupulous in statement. I thought that the value of his judicial work lay in

the thoroughness of consideration of his cases, which his opinions evidence, and in the clearness with which he stated the legal principles deemed to be controlling. The methodical order of his mind led him to state the case with that fullness of detail, which would permit of no misapprehension as to the precise nature of the case under advisement.

As the man, Judge Bartlett was rmarkable for the liveliness of his conversation, for the cheerfulness of his outlook upon life and for his love of mercy. He had a good memory and his mind was well stored with information from the reading of the best authors and of the topics of the day. His wit was bright and he was ready in repartee. Observant of the foibles of men, he was never harsh in his judgments. He was not exempt, in the later years of his life, from domestic troubles; but they did not affect the evenness of his disposition, nor incline him to morbidness. He was always hopeful of humanity and tolerant of its weaknesses.

I look back upon my long intercourse with him as having brought to me much pleasure and that profit, which accrues from conversation with those who look out upon life with broad and cheerful views.

In the death of Judge Bartlett the State has lost an efficient servant; the Bar a member, always interested in the maintenance of high standards of professional conduct, and the Bench an associate, who was loved for his excellent qualities of heart and mind.

I shall be obliged to you if, in expressing to the members of your Society the assurances of my appreciation of their invitation, you will, also, convey to them this brief tribute to the memory of your late associate.

Very truly yours

JOHN CLINTON GRAY.

DAVID JOSIAH BREWER.

Associate Justice of the United States Supreme Court; born in Smyrna, Asia Minor, June 20th, 1837; son of Rev. Josiah Brewer and Emily A. (Field) Brewer, sister of David Dudley, Cyrus W., and Justice Stephen J. Field. His father was an early missionary to Turkey. He was graduated from Yale College in 1986 and from the Albany Law School in 1858, and he established himself in his profession at Leavenworth, Kas., in 1859, where he resided until he moved to Washington to enter upon his present duties. In 1861 he was appointed United States Commissioner and during 1863 and 1864 was Judge of the probate and Criminal Courts of Leavenworth County, Kansas. From January 1865, to Janruary, 1869, he was Judge of the District Court, in 1869 and 1870 was county attorney for Leavenworth and in 1870 was elected Justice of the Supreme Court of his State and re-elected in 1876 and 1882. In 1884 he was appointed Judge of the Circuit Court of the United States for the Eighth District, and he was appointed to the position of Associate Justice of the Supreme Court of the United States to succeed Judge Stanley Matthews, deceased, in December, 1889 and was commissioned December 18th, 1880. He was president of the Venezuela Boundary Commission, appointed by President Cleveland; a member of the arbitration tribunal to settle the boundary dispute between British Guiana and Venezuela. He was orator at the bi-centennial of Yale University in 1901 and President of the International Congress of Lawyers and Jurists of St. Louis, in 1904. He has received the degree of LL.D. from the Iowa College, Washburn College, Yale University, State University of Wisconsin, Wesleyan University, Middleton Connecticut, the University of Vermont and Bowdoin College. Justice Brewer is author of: The Pew to the Pulpit, 1897; The Twentieth Century from Another Viewpoint, 1899; The American Citizenship, 1902. He married at Burlington, Vermont, October 3d, 1861, Louisa R. Landon, who died April 30th, 1898. He married again at Burlington, Vermont, June 5th, 1901. Emma Miner Mott, of Washington, D. C. He has long been a corresponding member of

the Medico-Legal Society and was recently elected as an honorary member of that body.

He died at Washington, D.C., March 28th, 1910, in the full flush and vigor of his intellectual powers at a most critical period in the history of that court when his loss may change the result of that court's action on the most vital public questions of the hour.

JUDGE GEORGE H. WILLIAMS

Known as Oregon's Grand Old Man, was born in New Lebanon, Columbia County, N. Y., March 26th, 1823. He received an academic education at Pompey, N. Y., and was admitted to the Bar of that State when twenty-one years old. Shortly thereafter, he moved to Iowa, opening a law office at Fort Madison. He was elected Judge of the Firt Judicial District of Iowa in 1847, serving five years. He was appointed Chief Justice of the Oregon Territory in 1853, and was re-appointed by President Buchanan in 1857.

Judge Williams became a member of the Constitutional Convention, appointed to draft a Constitution for Oregon, and was Chairman of the Judiciary Committee of that body. He was one of the founders of the Union party in 1860 and, subsequently, canvassed the country for Lincoln. He was elected United States Senator from Oregon in 1864. In 1871 he was appointed a Commissioner to adjudicate the Alabama claims.

Judge Williams became Attorney General in 1872, in President Grant's cabinet. He had at one time the Court law trustee in that State and was a corresponding member of the Medico-Legal Society. He was elected Mayor of Portland in 1903, retiring two years later to private life, where he occupied an honored place, having the esteem and respect of all.

The writer had known Judge Williams nearly half a century. President Grant appointed him Chief Justice of the Supreme Court of the United States, but the Senate did not confirm the nomination. The District Court at Portland, Oregon, passed most highly complimentary resolutions in respect on the occasion of his death and the Bar of Portland spoke in the highest praise of his career and the high estimation of which he was held by the entire people of Oregon.

UNITED STATES SENATE.
Washington, D. C.

HON. CLARK BELL, May 9, 1910.
39 Broadway, New York City.

MY DEAR SIR:—

I beg to acknowledge the receipt of your favor of the 7th instant advising me that the Medico-Legal Society will at their May meeting in New York take memorial action on the death of Honorable George H. Williams, at one time Attorney-General if the United States, and inviting me to be present on the occasion. I regret exceedingly that it will not be possible for me to be present and to assist in doing honor to this distinguished man.

From the date when at the age of 24, he was elected a Judge in Iowa until the time of his death George H. Williams has occupied a prominent place in the history of our country. Those who knew him best loved him best, and no man in the history of Oregon has ever so endeared himself to the people of the State. His life amongst those with whom the greater part of it was spent was an example and an inspiration and his name is "written large" in all that has tended to make for the betterment of his fellowman. It is fitting and proper that your Society, as the civic and other societies of Oregon have done, should pay tribute to his memory, to his example and to his usefulness as a national character.

I have the honor to remain,

Yours very respectfully,
GEO. E. CHAMBERLAIN.

May 9, 1910.

HON. C. BELL

I am sending you under seperate cover a calender received by me from Oregon a few months ago with a splendid picture of Judge Williams thereon. It may serve the purpose for which you desire to use it.

May 9th, 1910.

Mr. CLARK BELL,
39 Broadway,
New York City.

Senate Chamber, Washington, D. C., May 10th, 1910.

MY DEAR SIR:

I am in receipt of yours of May 7th informing me that the Medico-Legal Society will take memorial action on the late Honoroble George H. Williams, formerly Chief Justice of the Supreme Court of the Territory of Oregon and Ex-Attorney General of the United States; also former Corresponding Member of the Medico-Legal Society.

I am pleased to learn that your organization will in this manner recognize the rare ability and high character of the "Grand Old Man" of the State of Oregon. Beyond question he was at the time of his death Oregon's most respected and highly esteemed citizen, which assertion I believe will shortly be evidenced by action on the part of the State of Oregon looking to the placing of a statue of him in Statuary Hall in the National Capital.

Yours very truly,
JONATHAN BOURNE.

JUDGE GEORGE H. WILLIAMS.

We are indebted to Chief Justice F. A. Moore of the Supreme Court of Oregon for a copy of "The Oregon" of April 17th, 1910, containing the Resolutions and Speeches at the Memorial action taken by the Bar of Portland, presided over by Judge R. G. Mower in the absence of Judge W. R. Gilbert, who had prepared the Resolutions but was unable to be present. They were of peculiar and extraordinary interest, from which a few selections are taken.

"Judge Williams was born at New Lebanon, New York, March 26th, 1823, so that at his death, April 4th, 1910, he was more than 87 years of age and it is described in the preamble to the resolutions, "that he was still youthful in mind, belonging to the present, not the past; interested in the problems of the day and as progressive as a man of twenty-five."

Admitted to the Bar in Syracuse, N. Y., in 1844, he started to his Western destination by the way of the Erie Canal to Buffalo, thence down by Ohio Canal to Pittsburg, then down the Ohio to St. Louis and up the Mississippi River to Fort Madison, Iowa, his future home. In 1847, on the admission of Iowa as a State, he was elected a District Judge at about the age of 24. He canvassed the State as an anti-Slavery Democrat for Pierce and in March, 1853, at 30 years of age, was appointed Chief Justice of Oregon Territory.

President Buchanan re-appointed him to succeed himself.

Recognizing the great future of Oregon he resigned from the Bench in 1853 and opened a law office in Portland. Oregon, at 35; was elected a delegate to the State Constitutional Convention; made Chairman of the Judiciary Committee and took the stump for the adoption of the State Constitution. He signed the call for an amalgamation of the anti-Slavery Democrats with the Republicans to be called the Union party at the Consummation of which he entered the Republican Party and in 1864 was elected to the Senate of the United States. At the expiration of his term as Senator he was appointed attorney general of the United States by President Grant.

He was a member of the Joint High Commission which met in Washington to determine how the disputes between Great Britain and the United States should be settled, namely: The Northern boundary, through Puget Sound, and the claims for the depredations of the Confederate cruiser Alabama.

He was a leader in the senate during the impeachment of Andrew Johnson, and was chosen by General Grant and his advisers as one to campaign the south and explain the reconstruction act, the policies of the administration and to plead for southern co-operation.

In all the troublous times following the Civil War, the responsibility of enforcing law and order by civil remedies was upon him as attorney general. He had to meet the lawlessness of the Klu Klux Klan; he had to decide between two governments in Louisiana, Alabama and Arkansas, conflicts which he resolved in favor of the Republicans in Louisiana, the Democrats in Arkansas and by a compromise in Alabama. General Grant sent the name of his attorney general to the senate to be chief justice of the United States. Judge Williams eventually insisted on his name being withdrawn and the causes have been variously stated as political animosity in the east, due to his Republican partisanship and activity in the reconstruction work; social antagonism to his second wife, then ambitious to be a leader in Washington society, and opposition to him in Oregon because in the course of his active senatorial career and while holding the office of attorney general he had necessarily failed to please everybody. Probably all these hostilities contributed to a result disgraceful only to those who produced it.

Beautiful tributes were paid to his memory by ex-Senator John M. Gearin, from which I quote:

"His public life is so known of all men, and its achievements have been so grafted upon the history of our state—so written into our constitution and our statues—so woven by judicial decisions into the framework of the laws under which we live, that no voice is needed to recount them—no historian to write in a book that which has already been written upon the hearts of the people of the state of Oregon.

As a lawyer and judge he was an honor to the bench and bar of this state. As a senator, an orator and a statesman, he reached the heights and was crowned with the laurel of a nation's commendation.

Cicero in his essay De Senectute recites that "When the Sammites had brought a great quantity of gold to Curius as he sat by his fireside, they were repulsed with disdain by him, for he said that it did not appear to him glorious to possess gold but to have power over those who possessed gold." That was written 2000 year ago, but the sentiment will bear repetition to-day, and to-morrow, and so on until time shall be no more. But "power" may mean different things according to the ideals of the one who defines it. The greatest power is the power of the affections, the greatest instrumentality for good in all this world to-day is a kindly heart—and the greatest reward that can come to man through any power is to possess the esteem of his companions and fellow travelers in the journey of life. That this regard came to Judge Williams we all know, and we know that he deserved it."

The preamble of the resolutions concludes as follows:

His life covers the most active part of the history of this country. When it began there were neither railways nor telegraph lines. Travel was by river, canal and coach. Chicago did not exist. Pittsburg and St. Louis were the western frontier, and in all that has gone to the making of the country and of the state of Oregon he has had a conspicuous part.

He has gone from us and as we review the record he made and the example he has left, we can say we have lost more than the judge and the jurist; more than the politician and the statesman. We have lost a noble and a good man.

Therefore, be it resolved that in the death of George H. Williams the nation has lost a valued servant; the state and the city their greatest citi-

zen and the bar its most eminent and beloved member; and that a copy of this memorial be engrossed and transmitted to the members of his family.

Hon. Cyrus A. Dolph paid a glowing tribute and an eloquent eulogy on his life and career:

"He lived in the best century the world has ever known. He early followed the star of empire across the Alleghenies to the then new state of Iowa, where he left the imprint of his genius.

Thence bearing the scales of justice in his hands he came to the Oregon country, the permanent home of his adoption. Here he not only left the impression of his strong personality upon the constitution and laws of this state, but he accomplished that which to him was a source of infinitely more pleasure and satisfaction—he won the abiding esteem and affection of all who knew him. He saw stupendous changes in his time.

When he came here he saw the great northwest largely occupied by savage tribes, whose occupation varied only between hunting, fishing and war, and here he lived to see 2,000,000 of his own race dwelling in comfortable and happy homes, and blest with schools and churches, agriculture and commerce, the refining influence of society and all that goes to make a people great and patriotic and powerful.

He lived to see the population of his native land increase from less than twelve to a hundred millions. He saw the nation extend its dominion westward across the continent, out through the Golden Gate and half way around the globe.

His distinguished services to the state and nation will be more and more appreciated as time goes on, and in the history of his adopted state his name will appear first upon the roll of honor."

Hon. STANLEY B. ATKINSON.

Honorary Member of the Medico-Legal Society of New York.
Late Honorary Secretary of the Medico-Legal Society of London.

It was the begining of the present month of May 1910 that information reached me of the death of Stanley B. Atkinson, one of the Honorary Secretaries of the Medico-Legal Society of London, who has been most active in its work in time to announce his name among those on whom the Medico-Legal Society will take Memorial action as the Honorary member of the Medico-Legal Society of New York. Mr. Atkinson was one of the most prominent members of the London Bar and he made frequent contributions to the literature of forensic medicine has always taken a great interest in the Medico-Legal Society of New York. Vol. 6 of the transactions of London Society contains a paper entitled Heredity and Affiliation, which was read before the Medico-Legal Society of New York from that Volume at its session of May 18th as a fitting contribution to his memory, it may be proper to say that he was also a member of and one of the Honorary Presidents of the International Medical Congress at Lisbon of 1906, and contributed a paper entitled the Medico-Legal Relations of Spontaneous and of Criminal Abortion and also an address upon the subject of "When Abortion is Justifiable," which is published in the transactions of that body.

The loss to the science of Medical Jurisprudence is irreparable and it will be a long time before any one can be found who can fill the place he occupied in the splendid work of the Medico-Legal Society of London.

Mr. Bell submitted as Chairman of the Memorial Committee, extracts from the Transactions of the Medico-Legal Society of May 18th, 1910, as a part of the Memorial Tribute and announced that he should add to the published report such additional contributions as he should receive later if they came in time. The Hon. Elihu Root, Secretary of State, wrote on the eve of his departure to the Hague expressing the regrets he felt at being unable to give his tribute to the memory of Judge Bartlett which he had been invited to do in behalf of the Bar and the Union League Club of which Judge Bartlett had been for many years an officer and member.

ETERNAL YOUTH.

By Harry Gaze of Cincinnati.

Under present conditions of life, just when a man should be ready because of his experience and developed judgment to live the most efficient and enjoyable life, he finds his mental and physical powers declining. In the past, we have regarded this situation as inevitable, and submitted to it with as much grace as possible. It is my purpose to endeavor to logically demonstrate that this decay of mind and body is not the inevitable result of advancing years.

Old age and death are due to causes which may be averted. Man has within him the mental and physical equipment for eternal youth.

The fact of a universal law of change is usually considered sufficient to refute the possibility of perpetual rejuvenation of the body. As a matter of fact, man is constantly surviving the changes of his body. Man does not become old merely because of change, but mainly because he falls to change enough. In the same way, man does not *grow* old, he manifests age by failure to grow.

The secret of eternal youth is conscious co-operation with the law of change and growth.

We are constantly building new bodies, and the flesh of a man of seventy is as new as the flesh of a child. A realization of the intimate relation of mind and body should lead us to realize the newness of the body. It is contrary to the laws of good suggestion to think of one's body as old, and that it is constantly growing older. Realize that it is being built over and over again through molecular renewal.

One great secret of enduring youth is that we must avoid maturity or prime of life. If the mind is filled with a sufficiently strong purpose to unfold new power of mentality and body, the vitality for this development will be engendered.

The law of change really demonstrates that man is a self-born being. The body that one possesses to-day is one that has come into form during the last few months of his life, cell by cell, molecule by molecule, and atom by atom. Auto-Genetico is the newest and greatest science.

The new psychology demonstrates that persistent suggestions dominate the sub-conscious mind that has charge of the so-called involuntary activities of the body. The conventional mental attitude of the race is directly opposed to the perpetual preservation of youth. We constantly suggest approaching age, and live in the anticipation of senility and death. Anticipation of death is psychological suicide.

The mental attitude which must be adopted in order to attain eternal youth is one in which there is a recognition of the constant renewal of the body; a determination to avoid being "grown up" by persistent efforts at mental and physical development; a constant looking foward to life more abundant with the conviction that one's best days are yet to come, and an unflagging optimism to the exclusion of worry, fear, and violent emotions.

Man's body is not merely a machine; the machine has no intelligent principle of repair within itself. No art can replace the worn-out atoms of the most perfect mechanism as they are replaced in the human body. Of the machine it may be said that the most perfect use of it wears it out, while non-use preserves it. On the other hand, proper use of the body preserves it while non-use destroys it.

The problem is to be able to reach the mind with sufficient mental force to replace negative tendencies and habits with positive, constructive thoughts and suggestions.

Delivered by Harry Gaze, before the Medico-Legal Society, at the Waldorf-Astoria, May 18th, 1910.

This perpetuation of life will not mean, as some fear, the perpetuation of the unfit. Conscious evolution is essentail to perpetual youth; and this demands advancement and progress in each department of life. Nature will give perpetual youth to the individual when he is responsive enough to become medium for the scheme of evolution. Otherwise, the child is found a more responsive instrument, and the old and static life must give way to the young and plastic.

Contrary to popular supposition, death is not an inherent property of matter, as biology proves through the study of unicellular forms of life. Somatic death is the servant of evolution, and has had an important but not permanent function to fulfil. Man has arrived at that stage of evolution where he can continue to evolve without death, and live in the possession of eternal youth.

My principal purpose in this brief paper is to suggest the psychological secret of eternal youth which is to constantly renew the mind in correspondence with the renewal of the body. We can best prevent hardened arteries by avoiding fossilized thoughts, and by constantly thrilling the mind with new thoughts, new ideals and new purposes. Youth and unfoldment are synonymous terms. The statment "I can and will unfold" literally means "I can and will be young."

While I have decided to limit my papers to a consideration of the psychological causes of the preventable and curable disease, commonly known as "old age", I wish to briefly say that mind and body are so closely related that the secret of eternal youth is both psychological and physiological. We find in the study of unicellular forms of life that they are rejuvenated by a form of conjugation in which their unclear substance is exchanged. Their approaching senility is overcome by this nutritive transfusion. In human life, through recent medical experiments in the transfusion of blood, we see a somewhat imperfect analogy to unicellular rejuvenescence.

I venture to prophesy that eventually science will demonstrate that the physiological secret of perpetual life in the body is a natural and non-surgical transfusion of blood in nutritive form between human beings in ideal marriage, and that the psychological requirements of eternal youth will be enhanced by a loving agreement between husband and wife to blend all their forces, spiritual, mental and physical toward their mutal rejuvenation. Love is the elixir of life, the one and only satisfactory and permanent rejuvenator of mankind.

All students of suggestive therapeutics have found that the principal difficulty to be met is in overcoming the inertia of the sub-conscious mind.

Hypnotism has proven an aid in this direction, but it is not altogether a satisfactory method. There are certain disadvantages in the control of one mind by another. The subconscious mind is the seat of the emotional life, and it is readily demonstrable that its conservative tendencies are overcome to a large extent through emotional power.

The influence of emotional thought upon the body is very marked as compared with ordinary suggestion. The wound of the Cross appearing upon the bodies of the devotees of the European shrines are marked examples. The rapid change of the hair to white under the influence of grief or fear is often observed. Under the influnence of constructive emotions like love and courage, we see marked results of a favorable nature. The rejuvenative effect of sucess in love has been noted in all stages of the world's history. While there is tremendous power in autosuggestion, mutal suggestion and agreement proves a more potent rejuvenator, especially when rendered more creative by the fire of the heart.

In conclusion, let me say that to demonstrate eternal youth, we must put every possible force on the constructive side. Every thought and habit should be tested for its contribution to vitality.. The message of the new age is "Prepare to live," for a man is slowly but surely discovering the truth that the fountain of life is within mankind.

COL. WILLIAM F. CODY.

The retirement from the prominent position this man has held in the public eye for the last quarter of a century is not without great public interest.

He held the center of the stage—a position entirely unique and closely identified with the interests concerning our country and its development that is now filling the whole world, with profound admiration, wonder and astonishment.

Few, if any single man has been more closely identified with the advancing progress of the American Nation in the estimation of the whole world than has Col. Wm. F. Cody.

He has been the master spirit that has put in prominence, not only, but in perpetual remembrance, the transformation that has made the great and magnificent West, with all its wonders a part of the History of the American nation as it is now attracting the attention of the whole world. He has given it lustre, atmosphere and character. I have known him from the era of the construction of the Union Pacific Railway in the Sixties, and been in close touch with him from the location of the line of that great transcontinental work, and there is no man now living who represents in his work his life and career or is a higher or more perfect type of that grand body of men who have moulded the American character of our nation, and helped to give it the collossal, broad, picturesque and noble position it occupies, or that now characterizes the men of the frontier, and absorbed into the national life the spirit of the great west, than has this remarkable man.

He was and he is, a superb specimen of a man considered along lines of great physical perfetion. Of a courage, a bearing and efficiency, where no man connected with his career was at all his superior, and with scarcely a peer; as a soldier among the noblest and the best of our splendid generals, Sherman, Grant, Custer, Carr, Sheridan, Miles and every General of our army under whom he served, all of whom loved and trusted him, and he served under them all, and all held him in their highest estimation.

He won the admiration of the North American aboriginee more perhaps than any other living man of our race in this country.

The coloring that the American people as a race when considered by mankind as a people, in the last half of the last century, and even when we have reached another era or another decade or two, of the present will have been given it by the work to which the last forty years of his life have been devoted in the moulding of our nation and people by that education which he has given and made common knowledge to our whole population, and it will be due to him.

When his farewell will have been completed, which will take two years, there will hardly be a child in our country who has not been charmed, delighted and educated by this succession of object lessons which he has painted impressively upon the American mind, of that part of our history, which has been so splendidly illustrated, because he is as great as an artist, as he is and has been as an educator.

His influence when he will have closed his work will stand among the most influential of the makers of the history of his century and will grow as the years roll on. He will always be held in the highest remembrance as one of the strongest of men. His powers of physical endurance, of fatigue and hardship, has been all his life unparalelled.

He does not retire on account of his age. The actual physical labor of what falls to his lot every day of his life now, would be far beyond the capacity of even the strongest of men. His whole career as a scout in the saddle, in the field, in our army, is full of examples of bravery, dash, activity, energy, power of physical endurance, almost without

parallel among men of our century. There is no officer or soldier in our army in the field, or in the line, who was his superior in the endurance of fatigue and hardship in stress of weather and who has done more splendid, rapid and valuable work than Col. William F. Cody. This has been the testimony of our great generals to me, under whom he served, most of whom I knew personally.

The effect of Col. Cody's work upon the people of England, France, Italy and foreign capitals in the object lessons which he presented, can hardly be understood or appreciated, in the education of the people of those countries who saw his exhibitions which demonstrated our greatness, not only, but our destiny as a nation.

I was in Paris once when he was there at the International Congress of Anthropology in Paris.

He gave me a dinner in his tent on the grounds where I had the leading scientists of that Congress, see representatives of more different races of men, especially the American Aboriginee of distinct and separate tribes and language, than could be shown in Paris if all Europe had contributed.

The science of anthropology, the study of man as a race, was enriched by this exhibition which this remarkable man had illustrated, and students of that science from all the European capitals saw the unparalelled collection of the aboriginee of our continent which could not have been collected by any other possible means except through the energy, sagacity and the genius of Col. Wm. F. Cody.

His name will go into posterity as "Buffalo Bill." He saw the buffaloe of the plains when it was the grandest spectacle of his boyhood. It no longer remains except as a memory to but few. His portrait on the side of the buffalo is typical of his life, and of the passing of that remarkable animal which was in vast herds in my boyhood and his.

He is one of the remarkable men of his era. His memory will remain with all who have known him, and his career, will redound to the honor and the glory of our country, as one of the highest type, of the most remarkable men of the frontier; of the last third of the past century and of the opening first quarter of this. Cody will live out his century, barring accidents. He has had a splendid lieutenant in his recent work, Major Burke, one who has stood by his side in this campaign also identified with his work and career. He is entitled to twenty years of rest and enjoyment, which he will take in 1912, when he shall have finished the farewell to our American cities which it will take him at least two years to accomplish.

Cody has been a dweller in the Rockies and his Soul is in tune with *Goethe*. He has seen the glory of the grand mountains and none knows better or can sing with more zest, "that on every height there lies repose." He bids us farewell as he prepares for the tranquil evening of his life. When he can sing with the Persian poet after he has said his last farewell:—

"Come fill the Cup, and in the fire of Spring,
Your Winter Garment of Repentance Fling,
The Bird of time has but a little way,
To Flutter; and the Bird is on the Wing.

"Whether at Naishapur or Babylon,
Whether the Cup with Sweet or Bitter run,
The Wine of life keeps oozing, Drop by Drop,
The leaves of Life keep falling One by One.

And as the shadows lengthen, He from his winter Home may sing:

"The worldly Hope men set their Hearts upon,
Turns ashes—or it prospers and anon,
Like Snow, upon the desert's dusty face,
Lightly a little here or there; is gone.

ELBERT HUBBARD.

Elbert Hubbard is *sui generis* and unique on his intellectual side. He passes his half-century this year. He seems to be the most prolific of all our American writers now in the world of letters. He entered the second half of his century of life recently and has no equal in the unparalelled fecundity of his intellectuality and genius.

His creative faculty is prodigious and almost unparalelled. His literary work at the pace he is now producing is a marvel. Without considering what he writes for the "Philistine," "The Fra," "The Little Journeys," and his ordinary output at East Aurora, the fruit of his pen in the columns of the*New York American* must exceed in Volume that of any writer on that Journal, or any writer on any Journal.

It is of a higher type, abler more subtle, perfect and complete, now, than at any other period of his career.

He seems all the time in his recent essays in that Journal alone, at his best, as contrasted with his earlier literary productions.

His output is not like the writers of fiction, such as Dumas, Balzac, Dickens, Ainsworth, Cooper, Bulwer Lytton, Scott, or any of our modern novelists.

His literary faculty and fecundity in using his work as a Journalist as a standard and a model or a study of how to measure

the mental capacity and strength of the human faculty and power, is full of interest.

We made tests some year ago of the limit within which a man could communicate thought in coherent speech. The rapid speaker can outstrip the stenographer. What is the limit of human ability to take down speech? The apparently highest tests have been seemingly reached. Spoken thoughts outstrip the imagination in its creative flights and far exceed the vocal power in man.

I am inclined to think—Larson is right, who claims that user is the royal road to power and progress in production. The mind like the Toledo Blade, is brightest when most used, and up to its utmost capacity and tension.

The scintillations of Hubbard's work are to-day the highest, rarest, and most brilliant of his career. They indicate power, strength creative force energy, vigor and vitality and they are on the uppermost Alps of human endeavor!

He is a genius and will attain and reach the sublimest summits.

The Infinite has smiled upon him, and he is destined to a great future as a leader and marvel, in the realm of the higher thought and literature, of the age in which we now live.

I asked him a few questions in commenting on the enormous amount of work he is now doing.

He made this reply:—

Dear Mr. Bell:

Thank you very much for your kind letter, just received.

The human mind is a miracle and a mystery—even to the owner. A man is, it seems, merely a medium or machine through which flows the divine energy. All men, says Emerson, think great thoughts, but few get the habit of catching the electric spark and clothing it in words.

You ask about my parents. My father and mother live here in East Aurora and belong to the Baptist church—going to the Baptist church in the morning and hearing their preacher, and in the evening to hear me preach. I usually give two or three addresses here a week at the Roycroft Chapel, necessarily without preparation excepting that which is naturally derived from writing during the week.

I was born June 19th, 1856 at Bloomington, Illinois. My father is now ninety-one years old, my mother eighty-two. My father is slow, judicial, kindly, generous affectionate and absolutely without any business capacity. my mother is nervous, rapid, systematic, orderly, industrious, economical. I resemble her in my mental make-up much more than I do my father.

In the way of achievement the Message to Garcia, written in an hour and reprinted twenty-five million times or more and translated into nine different languages probably exceeds any literary feat ever before performed. I do not take very much credit to myself for the matter, however, and the effort itself is of no special value in a literary way, the lesson being merely a true and trite one. The immense circulation it attained

was through Mr. George H. Daniels of the New York Central Railroad who sent it all over the world.

Next to this, however, in my Little Journey to the home of James Oliver, I had my foot smashed by a falling tree and improved the time by writing this little journey to my dear old dead friend, Scotch and stubborn, with all the beautiful Scotch virtues—without which our civilization would be worse and more barren of ideality than it is.

The Oliver people have used two million, five hundred thousand of these Little Journeys, paying me something over one hundred thousand dollars for them. They are sending one to every farmer in the United States. I believe this is the largest sale of literary pishmince that has ever been put out by an author in America.

I am re-printing your article on Metchinikoff, and as for that portrait you are going to send me—it has never arrived.

I wish you would come along this way some fine day, wearing your old shoes, and we will tramp through the woods and over the hills, live the simple life, and settle some of these great questions that have been so long troubling mankind.

With love and blessings ever, I am your sincere,

ELBERT HUBBARD.

I submit as an example of his strength, his power, his virile, prolific, strenuous, magnificent, creative genius, a clipping I cut from a recent "American" entitled "Friends and Friendship":—

"When Charles Kingsley was asked for the secret of his exquisite sympathy and fine imagination, he paused a space, and then answered: "I had a friend."

The desire for friendship is strong in every human heart. We crave the companionship of those who can understand. The nostalgia of life presses, we sigh for "home," and long for the presence of one who sympathizes with our aspirations, comprehends our hopes and is able to partake of our joys.

A thought is not our own until we impart it to another, and the confessional seems a crying need of every human heart.

We reach the divine through some one, and by dividing our joy with this one we double it, and come in touch with the universal. The sky is never so blue, the birds never sing so blithely, our acquaintances are never so gracious as when we are filled with love for some one.

Being in harmony with one, we are in harmony with all. The lover idealizes and clothes the beloved with virtues that only exist in his imagination. The beloved is consciously aware of this and endeavors to fulfil the high ideal; and in the contemplation of the transcedent qualities that his mind has created, the lover is raised to heights otherwise impossible.

Should the beloved pass from earth while this condition of exaltation exists, the ideal is indelibly impressed upon the soul, just as the last earthly view is said to be photographed upon the retina of the dead. The highest earthly relationship is in its very essence fleeting, for men are fallible, and, living in a world where material wants jostle and time and change play their ceaseless parts, gradual obliteration comes and disillusion enters. But the memory of a sweet companionship, once fully possessed and snapped by fate at its supremest moment, can never die from out his heart.

All other troubles are swallowed up in this. And if the individual is of too stern a fibre to be completely crushed into the dust, time will come bearing healing, and the memory of that once ideal condition will chant in the heart a perpetual eucharist.

And I hope the world has passed forever from the nightmare of pity for the dead; they have ceased from their labors and are at rest.

But for the living, when death has entered and removed the best friend, fate has done her worst, the plummet has sounded the depths of grief, and thereafter nothing can inspire terror.

At one fell stroke all petty annoyances and corroding cares are sunk into nothingness. The memory of a great love lives enshrined in undying amber. It affords a ballast gainst all storms that blow, and, although it lends an unutterable sadness, it imparts an unspekable peace.

Where there is this haunting memory of a great love lost, there is always forgiveness, charity and a sympathy that makes the man brother to all who suffer and endure.

The individual himself is nothing; he has nothing to hope for, nothing to lose, nothing to win, and this constant memory of the high and exalted friendship that was once his in a nourishing source of strength. It constantly purifies the mind and inspires the heart to nobler living and divine, thinking. The man is in communication with elemental conditions.

To have known an ideal friendship and have it fade from your grasp and flee as a shadow before it is touched with the sordid breath of selfishness or sullied by misunderstanding is the highest good. And the constant dwelling in sweet, sad recollection on the exalted virtues of the one that has gone tends to crystallize these virtues in the heart of him who meditated them.

The beauty with which love adores its object becomes the possession of the one who loves."

THE ENGLISH LUNACY COMMISSION.

It has been the policy in England to increase the legal element in the English Lunacy Commission, and this has met with considerable opposition with the medical profession in that country. The Earl of Shaftesbury, was the president of the English Lunacy Commission for over 30 years, and he was perhaps the best lunacy commissioner that England ever had as President of the Board. He was neither a lawyer nor a physician. It is no doubt due to his great administrative ability, his great heart, his intense and patriotic philanthropy, and the deep and profound interest that he took in the welfare of the insane, that crystalized by his great work and the reforms he wrought, in the whole lunacy system of England, through the Parlimentary inquiries which he institutes and directed that the public sentiment of England has not favored the increase of medical influence upon the lunacy board itself. The last number of the Journal of Mental Science had the following editorial statement, which illustrates the view taken by the higher class of medical men in England respecting this subject.

THE LUNACY COMMISSION.

The Lunacy Commission, it is rumored, is to be increased to the extent of an additional medical and an additional legal member, but the amalgamation of the Medical Chancery visitors with the Commission is not yet carried out even if seriously contemplated.

The supervision of the Insane in England and Wales, judging from the present composition of the Lunacy Commission, would appear to require different provision from that which is demanded in Scotland, Ireland, our Colonies, the United States, and all Continental Countries. This difference consists in the very large proportion of legal members.

It would be interesting to have a definite pronouncement on the real reason for this. Is it due to difficulties in the interpretation of the law? This, however, cannot be the cause, since so very few questions arise, and even these are dealt with by outside tribunals.

Is it that the persons who apply the law, the judges and justices of the peace who sign orders, the medical men who sign certificates, and the medical officers of asylums, are of such a character as to need all this extra legal supervision? The small number of cases in which questions arise relating to the legal procedure in this aspect would certainly not seem to demand any large legal services, and the few cases that do occur are also dealt with by outside tribunals.

Is the additional legal supervision necessitated by any special proneness to break the law on the part of the medical men or of the attendants who detain and control the insane? Here again it would seem that these officials are not of a less law-abiding character than those in Scotland, or the other countries mentioned.

It would be absurd to suggest that the able members of the legal profession who act as Commissioners are specially useful in the medicinal treatment of the insane, or that any complaints in regard to property, detention, etc., could not as well be attended to by the visiting magistrates. Such complaints have always to be sifted primarily from a medical point of view to determine whether they are illusions or not and when so sifted are not usually of such complex nature as to demand the attention of an experienced barrister, and might equally well be referred to a visiting justice.

It has been argued that the insane in English Asylums are more satisfied by having their complaints answered by a legal than by a medical authority, but it is to be doubted whether the majority of medical superintendents would endorse this view, or that it would have escaped the oservation of other countries.

There must exist some very urgent reason for the predominance of

legal members on the Commission, but it obviously does not exist outside of England and Wales.

It is to be regretted that the Commission has not been strengthened by the appointment of Medical Deputy Commissioners, who would relieve their seniors of much of the work, which could quite well be done by less experienced persons. A great deal of the work is mere drudgery, entailing a vast amount of traveling and discomfort on men whose experience and energies would be expended more advantageously in the more important parts of the work of the Commission.

This has been found to work satisfactorily in Scotland and as a plan commonly adopted in other public departments."

The work of the Lunacy Commission from the English standpoint has always been advisory only of the conduct of Superintendents of Asylums. The Earl of Shaftesbury never made an order. He only gave advice. It related more to limit of policy, visitation, protection to the insane of their rights, correction of abuses by employees. It never had to do with medical treatment and rarely with medical questions.

MASSACHUSETTS MEDICO-LEGAL SOCIETY.

The Annual Meeting will be held in Sprague Hall, Medical Library, Boston, on Tuesday, June 7th, 1910, at 11.45 A. M. Annual Reports and Election of Officers.

The following papers will be read and discussed:

1. The Kelleher Cases, William D. Swan, M.D., Medical Examiner, of Cambridge; Hon. John J. Higgins, District Attorney, Northern District; Prof. William F. Whitney, Harvard Medical School.

2. The murder of Dr. Henry N. Stone, George L. Tobey, M.D., Medical Examiner, of Clinton; Prof. William T. Whitney, Harvard Medical School.

3. A Victim of Circumstances, Thomas F. Cunning, M.D., Medical Examiner, of Fall River; George Burgess Magrath, M.D., Medical Examiner, of Boston.

4. The Howard Murder Case, G. de N. Hough, M.D., Medical Examiner, of New Bedford.

The annual lunch will follow the meeting.

OLIVER H. HOWE, M.D., *Recording Secretary.*

Cohasset, May 23d, 1910.

BULLETIN OF THE MEDICO-LEGAL SOCIETY OF NEW YORK.

The Medico-Legal Journal will commence the publication of a Bulletin of the Medico-Legal Society of New York for the year 1910 with Volume I of that Bulletin if it meets with favor and sell it at $1 a volume.

Those who wish to subscribe for it will remit $1 in advance. It will be made up from the matter published in the Journal for that and the preceding years and forwarded to subscribers at the close of the year. Illustrations from the Journal will be inserted. Mr. Clark Bell has consented to edit it and it will be issued annually in volumes. It will enable the student to get the transactions and leading work of the society that appears, at a nominal cost of $1 per volume.

Such Journals as will notice and review it will receive it on application to Clark Bell, at 39 Broadway, New York City direct.

The London Medico-Legal Society, the Belgian Medico-Legal Society, the Medico-Legal Society of France and kindred bodies who issue Bulletins will receive this bulletin in exchange if desired, and such Journals as are accepted for the exchange list on application from Editors or Publishers will also receive it. The matter for Volume I is now in type for about half the year 1910.

The Bulletin of the Medico-Legal Society of France, Volume V, of the 2d Series—362 pages, for the year 1908 and is received confined to the work of that year. TheVolume VII for 1909 will follow. This work will be noticed in the current Volume of June, 1910.

Volume VI of the Transactions of the Medico-Legal Society of London is at hand and much noticed and other exchanging will be received and noticed.

THE MEDICAL JURISPRUDENCE OF INSANITY.

The Journal of Mental Science, April number, 1910. Editors:—Henry Raynor, M.D., A.R. Urquhart, M.D., J. Chambers, M.D., J. R Lord, M.B., Asisstant Editor J. & A. Churchill, Publishers.

This is a very valuable number of this high-class Journal and it publishes an epitome on the progress of Psychiatry in 1909 in the various countries.

AMERICA.—That upon America by Dr. William MacDonald, Jr., which gives a resume of the work in the United States of America.

BELGIUM.—That for Belgium is by Dr. Jules Morel, an Honorary Member of the Medico-Legal Society and is a very interesting statement of the present condition of the night service in that country where the care of the insane is entrusted almost entirely to the members of the religious orders under contract with the government to furnish everything except medical attendance at a fixed price per diem. There is in Belgium an Inspector General of the Asylum who is an Official of the Department of Justice and who has as a rule no medical training. He visits each asylum twice a year. The Committee of Medical Inspection in Belgium is composed of three medical men who receive no compensation for their service, the Government paying their expenses. They report to the Inspector General, but their report is of no medical importance. In point of fact in Belgium practically all the asylums are private institutions and medical directors do not exist. They are appointed by the proprietors. The two medical directors of the State Asylums have nothing to do with the management of the asylum or the care and supervision of the insane as is practiced in other countries. In Belgium the religious bodies contract with the State to supply the furniture for the staff, the food, clothing, bedding and maintenance of the patients. When I last visited Belgium the contract price was about one franc per day and the care of the insane in each ward fell to two brothers who were placed in full charge. The medical man of the asylum attended to the medical treatment of the insane in case it was deemed necessary but he has no other duties, the contract being to furnish everything except medical treatment. Dr. Morel speaks of the effort made by the Minister of Justice, Hon. J. Renkin, to introduce a continuous night supervision in the Belgium asylums in the wards of the acute insane, modelled to some extent after the system now existing in the English asylums.

FRANCE.—Dr. Rene Semelaigne contributes the report on France. Dr. Vallon, Superintendent of the St. Ann Asylum in Paris, presided over the 19th Annual Congress for French Alienists held at Nantes in the beginning of August, 1909, and severely criticised the new lunacy law adopted by the last Chamber of Deputies, which he regarded as retrograde legislation then under consideration at the French Senate. At the same congress Dr. Victor Parent, of Toulouse, made an elaborate report on the Fugues and Psychiatry, which is critically reviewed by Dr. Semelaigne in the English Journal.

GERMANY.—The report for Germany is made by Dr. J. Bresler and relates mainly to the connection between syphilis and general paralysis. Dr. Fischer's views receive careful notice and the report of the special subcommittee as regards a special training of judges, knowledge of prisons, penitentiary and the knowledge of criminal psychology.

ITALY.—The Italian report is made by Dr. Luigi Baroncini, of the

Clinicat, who are studying the merits of the School of Kraeplin, and also the Clinic of Tamburini one of the Honorary Members of the Medico-Legal Society and treats of the conditions of psychiatry in the various schools of study in Italy and alludes to the life and career of Lombroso.

SPAIN.—Dr. W. Coroleu contributes the article for Spain, who gives great praise to the Minister of War, whom, he says, has done for psychiatry what no secretary for public instruction has ever done before. The work of Dr. Fernandez Petoria, a military alienist entitled "Insanity in the Spanish Army" is reviewed and praised. The death of Dr. Dolsa, the dean of the Catelonia Alienists is noticed as well as that of his son, who was following in his father's footsteps.

Dr. Tambards lectures in Barcelona are also noticed in the review in this number. Havelock Ellis makes valuable contributions to the subject. This number of the Journal of Medical Science gives extensive obituary notices of the death of Sir Arthur Mitchell, K.C.B., M.B., M.D., formerly a member of the General Board of Lunacy, in Scotland. Also of Dr. James Rutherford, formerly physician and superintendent of the Crichton Royal Institution and one of the leading Alienists of Great Britain and announces the death of Prof. Lombroso, publishing the memoir from the London Times at length.

CORRESPONDING MEMBERS OF THE MEDICO-LEGAL SOCIETY.

William R. White, M.D., D.Sc., LL.D., etc., Principal. Prof. of Forensic Medicine, King's College, University of London, Russell Square, London, W. C. England.

F. S. Toogood, M.D., Barrister at law, Medical Superintendent, The Infirmary, 390 High St., Lewisham, S. E., London, England.

Robert Reid Rentoul M. D., 78 Hartington Road, Liverpool, S., England.

LAW PRINTING LAWS.—Edward Carroll, Jr., Company, Printers and Publishers, 64 Church Street, New York City.

The Bar is indebted to Mr. Edward Carroll, Jr., for a work which he has furnished the profession showing how to prepare printed legal papers in all the New York Courts, including the Appellate Division and the Court of Appeals, the Surrogate's Court, the Public Service Commission, and in the United States Courts, including the Court of Claims and the Circuit Court of Appeals, both the Circuit and District Courts of the Southern District of New York with specimens of Text, Pages, Covers, etc., for professional work done before the Interstate Commerce Commission and the United States Patent Office. It is carefully done and very ably edited and will be of very great service to the Bar in the preparation of papers in any of these Courts. Samples and covers, size and styles which differ, are given in the book, and I think lawyers generally will find it a very agreeable volume to have on their shelves.

The New York *Times'* Saturday review has this given on "Growing Old Gracefully":

It is one thing to grow old, and another to grow old gracefully. It is not only because he will be ninety-three next November, that the Hon. John Bigelow is an object of interest to his countrymen, but because he is as much interested in matters in which they themselves are interested, as he was before they were born. It is her intellectual alertness, and unfailing sympathy with her kind, that made the celebration of Julia Ward Howe's ninety-first birthday, last week, a matter of popular concern. Only three days earlier she had appeared before a milk-investigating committee of the Massachusetts Legislature, as a spokeswoman for the little children. As a food for babies, she said, there is no substitute for milk. Its purity is a question of life and death. Mrs. Howe should know, for she has raiseed children of her own, and helped to raise her grandchildren, and now she speaks with the authority of a great-grandmother. A year or more ago she said it was the delight she found in her many descendants that made old age tolerable and even enjoyable to her. And their delight, and that of the American people, in the singer of "The Battle Hymn of the Republic" is not less great.

No one takes himself quite as seriously as a popular author. Here is Pierre Loti, telling in Figaro how he—the last of the French Anglophobes—was cured of his phobia by King Edward and Queen Alexandra. Presented to His Majesty at a ball at the French Embassy in London, he was greeted as "the Anglophobe." "Sire," he replied in his own tongue, "I shall be less of one hereafter." The King himself could not have made a more royal response. This was the beginning of the cure. On the following day the Queen herself showed him all over Buckingham Palace, stopping only at the door of her own private study, on the ground that it was "not tidy enough." She knew how fastidious was her guest! The two thrones were covered up. "You know we are leaving twn soon." The "delicacy and adorable simplicity" of his guide were one too many for the sixty-one year old sentimentalist; and thus was the cure of his Anglophobia completed. The Queen, of course, was mistress of her emotions throughout the interview; but the gallant Capt. Viaud suffered all the tortures of embarrassment, remembering how he had spoken disrespectfully of the British Empire, and that even now it might be too late to alter the proofs of an article protesting against England's occupation of Burmah. As if Her Majesty would bother her pretty head to read his flowry anathemas.

Of both these ripe and splendid lives we can say with Rowe:

"Age sits with decent grace upon his visage,
And worthily becomes his silver locks;
He bears the marks of many years well spent,
Of virtue truth well tried and wise experience."

Tully says of old age:—

"I am much beholden to old age, which has increased my eagerness for conevrsation, in proportion as it has lessened my appetites of hunger and thirst."

But Wadsworth is the rhymer for the aged.

An old age serene and bright,
And lovely as a Lapland night,
Shall lead thee to thy grave.—*Wadsworth.*

Youth no less becomes
The light and careless livery that it wears
Than settled age his sables, and his weeds
Importing health and graveness.—*Shakespeare.*
As you are old and revered you should be wise.—*Ibid.*

His silver hairs
Will purchase us a good opinion,
And by mens voices to commend our deeds.
It shall be said his judgment ruled our hands;
Our youth and wildness shall no whit appear,
But all be buried in his gravity.—*Ibid.*

Apropos of "Medical expert testimony" it is to be perhaps regretted that the action of the New York Assembly upon Medical Expert Testimony occurring so late in the Session and reaching this Journal on the day it was intended to go to press, is of such general importance and must necessarily arouse considerable discussion, that it would be proper for the delay of a few days in our issue to hold the subject open temporarily. We quote the following from the Baltimore *Sun* of May 26th, 1910:—

THE MEDICAL EXPERT.

The Assembly, in an effort to check the abuse of expert medical testimony in murder trials, has passed a law providing for the appointment of official experts, and for their payment out of the public treasury at rates to be determined by the courts. These experts will be at the disposal not only of the prosecuting attorney but also of the person accused of murder, and at no cost to him. The object of the law, in brief, is to wipe out the advantage which rich criminals now enjoy in the courts, by reason of their ability to summon hosts of pathological perjurers to their aid. It is distinctly provided, however, that at the discretion of the trial judge, defendants may also call in experts not on the official lists, and so it is apparent that the value of the new law will depend, in the end, upon the good sense of the bench.

The medical expert, despite his interminable hypothetical questions and his eagerness to oblige his employer, seems to be here to stay. We have become aware, in other words, that in many cases the criminal is not responsible for his acts; that his crime is proof, not of deliberate devilishness, but of actual disease. It is important, then, that such cases be differentiated from those showing intent and responsibility, and the only way to do it seems to be by seeking the opinion of men specially fitted to inquire into diseased mental states. That such men are sometimes charlatans is beside the point. The thing to do is to weed out the charlatans—the prime object of the New York law. To dismiss all medical testimony as futile and absurd, on the ground that chicanery sometimes creeps into it, would be to go back to the dark ages, when hysterical women were burned as witches and imbecile children were hanged for theft.

EXPERT TESTIMONY

The New York Assembly has just passed a bill which deals with medical expert testimony in the trial of criminal cases in an entirely new way. By the terms of the bill the justices of the Supreme Court, which is the same as our Superior Court, are to designate in each district a list of physicians and surgeons who may be called as medical expert witnesses by the trial court, or by any party to a criminal action in any of the courts of the state. And when medical men are so called they shall be subject to examination and cross examination the same as any other witnesses. The fees shall be fixed by the presiding judge, to be paid by the county in which the trial is held. There is nothing in the law which will limit the right of parties to call other expert witnesses.

So far as expert testimony in criminal cases is concerned in this state, Connecticut has never suffered from the abuses which have grown up in New York. It may be noted, too, that while there is no actual designation of physicians who are to be called in to testify in criminal cases, the custom is in some respects the same, with the exception that the physicians are called by the states attorney for the prosecution and for the defendant by his counsel. Fees are generally fixed by the states attorney, subject to the approval of the trial judge. In serious cases the prisoner is allowed physicians as skillful as can be secured, even to going outside the state.

The New York law would have the physicians designated by the court, and there is something to be said of this custom. Doctors called in this way would be more likely to give absolutely impartial testimony, for that is what both sides ought to try and secure. Under such conditions the layman in the jury box would be more apt to give credit to medical testimony. The weakening feature that has grown into this class of testimony of recent years is the calling of one doctor to contradict another, only to find on cross examination that the contradiction is merely technical.

Medical testimony ought to be of such a character that both sides could obtain the very best information from one or two physicians. The witness ought to be able to feel that he could tell every possible circumstance that migh grow out of a certain case, without the fear or favor of any man. That is what they hope to secure in New York. We believe that as a rule in this state our physicians have acted in that way, owing to the customs of the courts, but an expert witness selected by the judges, would surely invite confidence in his testimony, and that would be more important in securing in fair trial.—*From the Bridgeport Post.*

The following letter has been sent to the Chairman of the Judiciary Committee of the Senate by the Chairman of the Law Committee of the Medico-Legal Society.

Chairman of the Judiciary Committee of the Senate of the State of New York, at Albany, New York.

Dear Sir:—

Hon. Ray B. Smith, Clerk of the Assembly, has sent me a copy of an act entitled, "An Act to Regulate the Introduction of Medical Expert Testimony," which I learn from the New York *Sun* has passed the lower House and is now before the Judiciary Committee of the Senate.

The bill is on its face apparently an advance upon the present law, and it perhaps should be approved provided you cannot get more advanced and complete legislation.

The Medico-Legal Society of New York, named a Committee from its membership, embracing some of the most eminent Judges and ex-Judges of the Supreme Court who submitted a bill drawn by the Chief Justice of the Supreme Court of the State of Maine, the Hon. L. E. Emery, containing four sections, which met the unanimous approval of this committee, and their action was approved unanimously by the Medico-Legal Society.

I send you under separate cover a copy of the bill suggested by that eminent jurist, and a copy of No. 4 of Volume 24 of the Medico-Legal Journal respecting it.

If the Senate would adopt the bill proposed by Chief Justice Emery, they would settle in an admirable way the law of our State respecting Expert Medical Evidence. I know of nothing that has been presented from any quarter or source at all comparable to this bill, but it may be too late in the Session for you to secure such a law. There is nothing in the act that has passed the Assembly which would be in conflict with the law proposed by the celebrated Chief-Justice of Maine, unless it should be construed as being final action on the subject by our Legislature. Every lawyer and every Judge knows the necessity of remedial legislation upon this most important question. Mr. Fowler's assembly bill is certainly a step in advance of the existing conditions. The Law Committee of the Medico-Legal Society would be glad to see this bill passed, but as Chairman of the Law Committee I desire to impress upon the Judiciary Committee of the Senate the importance of the passage of a law, along the lines of the bill proposed by Mr. Chief Justice Emery of Maine, which would be a complete remedy for the existing condition here.

I remain sir, with high regard, very faithfully yours,

CLARK BELL,

Chairman of the Law Committee of the Medico-Legal Society.

MEDICAL EXPERT TESTIMONY

The Assembly has passed the bill proposed by Mr. Fowler, entitled "An Act to Regulate the Introduction of Medical Expert Testimony," as follows:

It is now before the Judiciary Committee of the Senate. The New York City press has favored the adoption of Mr. Fowler's Bill by the Senate and if nothing better can be attained, the Legislative Committee of the Medico-Legal Society, would favor its passage as being an upward step in our Lunacy Legislation.

The Maine Bill so called drawn by Mr. Chief Justice Emery is the bill which has received the approval of the select Committee appointed by the Medico-Legal Society of which Mr. Chief Justice Emery is the Chairman, and the Editor of this Journal, Secretary.

The following is a copy of Judge Emery's Bill which if enacted would be the best possible remedial solution of existing and acknowledged defects in our present laws respecting Medical Expert Testimony. We can hardly hope to see such progress made at this stage of the session of our legislature. The two acts do not conflict with each other, and would undoubtedly work harmoniously if both were enacted.

The Judge who presides at the trial of the Supreme Court or other Court of competent jurisdiction is certainly the best possible power, to name one or more disinterested experts to try the question as medical Expert examiners in any given case. The question of the compensation also could have no better power to fix the experts fees than the Judge presiding at the trial and this would correct the terrible abuses of our present system.

The Bill is as follows:

THE STATE OF MAINE.

In the year of our Lord one thousand nine hundred and seven.

An Act Relative to Expert Evidence.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows: ....

Section I. In any case, civil or criminal, in the supreme judical court, or any superior court, when it appears that questions may arise therein upon which expert or opinion evidence would be admissable, the court, or any justice thereof in vacation, may appoint as examiner one or more disinterested persons qualified as experts upon the questions. The examiner, at the request of either party, or of the court or justice appointing him, shall make such examination and study of the subject matter of the questions as he deems necessary for a full understanding thereof, and such further reasonable pertinent examination as either party shall request. Reasonable notice shall be given each party of physical examinations of persons, things and places, and each party may be represented at such examinations.

Section 2. At the trial of the case either party or the court may call the examiner as a witness, and if so called he shall be subject to examination and cross examination as other witnesses. For his time and expenes incurred in the examination and in attending court as a witess he shall be allowed by the court a reasonable sum, to be paid from the county treasury as a part of the court expenses. The court may limit the witnesses to be examined as experts to such number on each side as it shall adjudge sufficient for an understanding of the contention of the parties on the question.

Section 3. When upon the trial of any case in either of said courts questions arise upon which expert or opinion evidence is offered, the court may continue the case and appoint an examiner for such questions as provided in Section 1.

Section 4. In all cases in said courts where a view by the jury may

be allowed, the court, instead thereof, may appoint one or more disinterested persons to make the desired inspection in the manner and under the same rules and restrictions as in the case of a view by the jury. The viewer thus appointed may be called as a witness by either party or by the court, and shall be subject to examination and cross-examination like other witnesses. He shall be allowed by the court a reasonable sum for time and expenses incurred, to be paid by the party asking for the view and taxed in his costs, or to be paid by the party asking for the view and taxed in his costs, or to be paid by the county as a part of the court Expenses, at the discretion of the court.

THE NEW YORK LAW BEFORE THE SENATE.

An Act to Regulate the Introduction of Medical Expert Testimony.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Within ninety days after this act shall take effect at least a majority of the justices of the Supreme Court assigned to the respective appellate divisions thereof in the several departments shall designate at least ten and not more than one hundred and twenty physicians in each judicial district, any of whom may be called as medical or surgical expert witnesses by the trial court or by any party to a criminal action in any of the courts of this state, and who when so called shall testify and be subject to full examination and cross-examination as other witnesses are, such examination to include examintion as to their competency. Any designation may at any time be revoked without notice or cause shown, and any vacancy may at any time similarly be filled by the justices sitting in the respective appellate divisions.

Section 2. When so directed by the trial court, witnesses so called shall receive for their services and attendance only such sums as the trial judge presiding in such case may allow, to be at once paid by the treasurer or other fiscal officer of the county in which the trial is had.

Section 3. This act shall not be construed as limiting the rights of parties to call other expert witnesses as heretofore.

Section 4. This act shall take effect September first, nineteen hundred and ten.

Note.—This act as it passed the assembly did not reach a vote in the Senate. —EDITOR.

POSTPONMENT OF THE JOINT SESSION OF THE INTERNATIONAL CONGRESS ON TUBERCULOSIS AND THE MEDICO-LEGAL SOCIETY UNTIL THE FALL OF 1911.

As we go to press the following action is taken:

OFFICE OF THE MEDICO-LEGAL SOCIETY,
29 Broadway, N. Y. City,
June 1st, 1910.

At a meeting of the Select Committee on the Proposed Joint Session on Tuberculosis of the American International Congress on Tuberculosis with the Medico-Legal Society of New York, held May 18th, 1910, Clark Bell in the chair and present Dr. J. Mount Bleyer, Hon. William H. Francis, Col. S. L. Bean, Dr. A. N. Bell, Dr. E. S. McKee in person or represented by proxy, the following action was taken:—

RESOLVED, That in view of the recent death of Dr. Koch and of the doubt now existing in the public mind respecting the true relation between Human and Bovine Tuberculosis; it is the sense of the Committee that the proposed Joint Session of the two bodies announced and proposed to be held in the City of New York in the fall of 1910, as the American International Congress on Tuberculosis be and the same is adjourned and

postponed until such time and place in 1911, as shall be hereafter determined by the officers of each organization

That a copy of this action be sent to such members of the Committee and of the Executive Committee of both bodies as are not present for their approval and advice with a request to concur in this action and that the same be announced through the public press at the earliest possible moment. Members not present at the meeting will please sign and return same by return of Post to the Chairman of the Committee so as to make the action as full as possible.

CLARK BELL,
Chairman Committee and Executive Board of Both Bodies.

J. MOUNT BLEYER,
President Council American International Congress Tuberculosis.

WILLIAM H. FRANCIS,
Secretary of the Committee.
S. L. BEAN.

Please sign and return to the Chairman Committee.

We hereby concur the foregoing action.

John Lochner, Vice-President Medico-Legal Society for New Jersey.
Francis T. B. Fest, M.D., V.P., of New Mexico.
A. E. Regensberger,M. D., San Francisco, Cal.

EUGENICS.

The Medico-Legal Journal has for more than a quarter of a century taken a deep and profound interest in certain great questions that now are of interest to a large body of earnest thoughtful students, of what is now designated as the "Science of Eugenics."

The Eugenics Education Society of London, defines it thus:—"The study of Eugenics under social control, may improve or impair the racial qualities of future generations, physically or mentally."

In the past the Medico-Legal Society and the Medico-Legal Journal has studied, Hereditary questions, the Deaf and Dumb, Anthropology, Race Suicide, Criminology Penology, The Insane, the Medical Jurisprudence of Insanity, Alcoholism, Inebriety, The Social Evil and Vasectomy.

It is a well-worn and beaten path, that we have trod for more than a third of a century. We shall continue to discuss the problem and questions along the line we have considered and conducted them in the past.

"WHAT IS GENIUS"

BY CHRISTIAN D. LARSON.

Mr. Larson is taking high place as a thinker and as a writer. He is a great factor in the world of thought to-day.

The Editor and the founder of the "Progress Magazine," of Chicago, he must be classed as a prominent power and force in the world of letters, of Journalism, of thought and human endeavor.

The march number 1910, of this Journal opens with an article on "The Great Problem the Ages have Tried to Solve." The Riddle of human Life. What is Truth? Where am I to find truth? How can I recognize it? In the same number he contributes an article entitled, "What is Genius," which I shall take great pleasure in reproducing and which I hope will give my readers half the pleasure it has given me. In my December number, I gave the first Chapter of Dr. Henry Maudsley's work on Heredity, Variation and Genius," which is the work of a master and a Genius.

Continuation of the Minutes of the May 18th, 1910, meeting omitted by mistake at page 29.

Mr. Bell called Judge Francis to the chair, who presided for the remainder of the session.

At the close of the discussion it was on motion of Clark Bell, Esq., resolved that the subject as to the propriety of the postponment of the International Session of the Congress be, and is hereby referred to a Select Committee to be named by the chair to prepare and submit a report and recommendation to be forwarded to the council of the American International Congress on Tuberculosis and to the Executive Board of the Medico-Legal Society which was after discussion adopted. On the question of the Tuberculin Test on motion of Mr. Gaze it was resolved that the foregoing questions be referred to a select committee to be named by the Chair with instruction to examine into the question with the aid of the best advice that could be obtained on both sides of the Atlantic and a report made to the executive officers of the Medico-Legal Society with a view of early action during the summer vacation. It was moved and seconded that the papers from the members of the Medico-Legal Society of London, read before this body, be published in the Medico-Legal Journal by this Society and all the paper relating to the Memorial action of the Judges be published by the Society in the Journal and that the select committees be instructed to ask for the co-operation of all men of science whether members of the Society or not and to consider their replies in their report.

It was then moved that when this Society adjourn it adjourns to meet on the 3d Wednesday of October, 1910, after the summer vacation and that during that vacation all the powers of the Society and of the executive committee in respect to the business of the bodies and in regard to new members be conferred upon the board of executive officers consisting of the chairman of the executive committee, the two vice-presidents, the secretary and treasurer of which three members will constitute a quorum, who are hereby invested with full powers to do any business that the socity could itself do at a stated meeting. It was on motion resolved that ex-President Clark Bell is hereby requested and empowered to name delegates to represent the Medico-Legal Society at any and all Societies or Congresses home or foreign during the season of 1910. On recommendation of Clark Bell, Chairman of the Executive Board, by unanimous action Prof. Dr. Robert Koch of Berlin was elected Honorary Member of this Society by reason of his great contribution to scientific discoveries.

Mr. Clark Bell, chairman, offered the following preamble and resolution, and asked favorable action of the Society as appropriate recognition of the great and valuable labors and public services of one of the ablest, most valued corresponding members of this body.

RESOLVED, That the Medico-Legal Society congratulates Arthur MacDonald on his complete judicial vindication in the Courts as the results of the trials affecting his scientific training and moral character.

That we believe that Mr. Arthur MacDonald, is one of the foremost criminologists on this side of the Atlantic, in its social aspects.

That in view of the labors, he has always rendered to science in his special domain, that the present is a fit time to confer upon him the highest honor in the gift of this body, and that his name be placed on the roll of the honorary members of this Society, as a recognition not only of his complete vindication, but of the great value and public benefit his work has already accomplished.

The resolution was seconded and unanimously adopted by unanimous votes having been granted to the suspension of the by- laws.

Mr. Arthur MacDonald, of Washington, was accepted and unanimously elected an honorary member of the Medico-Legal Society and Mr. Bell was directed to send him a copy.

The chair named as Select Committee on the proposed action as to the Joint Session of the International Congress on Tuberculosis:—

Clark Bell, chairman; William H. Francis, Dr. J. Mount Bleyer, George R. Tabor, President of the Congress, A. E. Regensburger, of San Francisco, Col. Dr. T. B. Fest, Col. S. L. Bean, Dr. A. N. Bell, Dr. E. J. Barrick, Dr. E. S. McKee, and on the questions relating to the Tuberculin Test, Clark Bell, Chairman; Dr. J. Mount Bleyer, Prof. Dr. Otto Von Schroen, Dr. Henry MacHatton, Prof Maurice Benedict, Prof. H. S. Eckels, Dr. E. S. McKee, Denslow Lewis, M.D., and Dr. Charles H. Hughes. It was moved and carried that the committees named should have the full power of the Society and of the Board in their action. That each committee should have the right to add names to their own committee. It was moved and carried unanimously that the Executive Officers of the Medico-Legal Society should have the power to fill all vacancies in any office connected with the Congress on Tuberculosis. The Society then adjourned.

WILLIAM H. FRANCIS,
Acting Chairman.
CLARK BELL.
Acting Secretary.

THE MEDICO-LEGAL SOCIETY OF BELGIUM.

At the moment we go to press, we received Vol. I. Fasicule II and III of Archives Internationales. de Medicine Legale, of the Medico-Legal Society of Belgium. Edited by G. Corin, of Liege F. Heger Gilbert, Brussells.

This is a work of great merit. To late to notice; in this number.

We will publish from it and review it and hope that fasciule I. will still be sent us.

PROFESSOR ROBERT KOCH OF BERLIN.

History will divide the honor that has come to Germany, in this century or the last, between two names, Virchow and Koch.

Which of these men has contributed more than the other to elevate and raise German science in the estimation of the world?

What name in the whole world has stood higher as a savant of vast renown than has Koch in the combat with that disease which has become the scourge of the world; and who than Virchow in that field in which he was by general aclaim entitled to be crowned the supremest, and the highest. Virchow was great as a statesman and on lines of statesmanship, political economy and public questions which Koch never entered.

Koch was a young man born in the Hartz mountains in 1843 and graduated at Gottingen in 1866. It was not until 1872 that he entered the Government Service as District officer of Health in the Province of Posen at Wallestein, an obscure part of Germany where he studied eight years.

His first recognition came on the etiology of Anthrax which he called to the attention of Prof. Cohn, whom he called his disciple, and published them in Cohn's Journal, a botanical and not a medical journal.

In 1878 he produced "Wound Infections," defending the antiseptic method of the great "Lister." This led to his call to the Imperial Health Office.

In 1882 his paper on the "Etiology of Tuberculosis," claimed that it was an infectious disease and was caused by a Bacillus.

His inventive genius in method of study led to his discovery of the Bacillus of Tuberculosis.

He made pure cultures on the mico-organisms; on artificial media, and with the pure culture thus obtained innoculated healthy animals and

produced in them a bacillus indistinguishable from those from which the Tubercule bacilli had been isolated.

He produced Tuberculosis and proved it on the serum of the ox. He demonstrated that light would kill the Bacillus.

He announced this discourse through Du Bois Reymond's Psychological Society of Berlin, and at one bound came into the centre of the stage in a blaze of light of universal popular recognition.

He became the most famous man in the world of science. Germany made him a Privy Counsellor. In 1888 his Government sent him to Egypt and India to inquire into the spread of Cholera. His discoveries while not complete were so valuable that the German Government voted him $25,000. In 1885 he was appointed Professor of Hygiene and Director of the New Hygienic Institute of Berlin. He worked here until 1891 when he was compelled to resign. At the International Medical Congress of Berlin in 1890 he announced a remedy against the disease, but said his experiments were not yet finished nor complete. But in the fall of 1901 he published in Deutsche Medicinsche Wochenscrift the new remedy—tuberculin—by the injudicious advice of his friends, and did claim that early tuberculosis could be cured by that remedy.

Virchow opposed it steadfastedly; certain Hospitals authorized it; all the world looked to Berlin for the remedy. It was not successful, the reaction was too great; many deaths followed. Virchow assailed it before the Medical Society of Berlin and showed specimens of lungs of those who had died under it; and it came into general disuse in Berlin.

The British Pathologists deprecated his early publications before he had completed his experiments. It was analyzed. It was shown to be prepared from a culture of Tubercule Bacillus in glycerine veal broth, of 6 to 12 months' growth and filtering off the bacilli by porous porcelain. It was, in fact, a solution in glycerin of the extra cellular toxins produced by the "tubercule bacillus." Its use was substantially a failure, except for diagnostic purposes and led to a general disuse in England and France, and he was criticised and condemned for its premature announcement, until he could assert its complete experimental success. Koch kept at it and improved it in 1897 introducing some modified forms and made claims of its curative properties, notably "The New Tuberculin," or "T. R." Later "Bacillan Emulsion," E. M.

It is used by some; the dose has been greatly reduced. The safer opinions are now, that though it might be of value in treatment as well as in diagnosis the limitations of its usefulness have not yet been clearly worked out and the time is not yet ripe for an exact estimate of its value in treatment.

The death of Koch is most unfortunate; no one has the power; the ability or the genius to continue the research, and it must be left for time and research to decide.

The want of success of Tuberculin did not disturb the confidence of Koch. His absolute honesty was established. In 1897 the British Government asked him to go to Cape Colony and investigate the Rinderpest and he made important discoveries.

In 1897 he studied the Plague in India, and in 1898 Italy called him to investigate Malaria and he served his own Government again in Africa he also made studies in the Sleeping Sickness there. In 1891 he practically neutralized the whole work of the British Congress by announcing that Human and Bovine Tuberculosis were separate and distinct. In 1882 he of course claimed otherwise, and when he introduced "Tuberculin" he must still have held to his original views. His announcement at the British Congress was amazing and filled the British scientists with consternation.

At Washington he left the doubt caused by his utterance at Stockholm, still existing, which dominated that Congress and prevented any positive action; although nearly the whole volume of American and British authority was against his view.

The Royal Commission in England and the great majority of the coun-

tries of the world are substantially agreed that the line of distinction between human and bovine tuberculosis as stated by Koch is not to be accepted.

He stated that he was not prepared to assert that from his investigations it could be demonstrated to be the same disease.

The Joint Session of the International Congress of Tuberculosis and the Medico-Legal Society of New York which had held four sessions of great and successful study announced to be held in 1910 was by its officers and committees postponed for a year, and the death of Professor Koch on the 28th of May no doubt justified the action of delay until the ablest students of the science should reach more certain and fixed views than those now reached.

The Medico-Legal Society unanimously voted that his name be placed on its list of Honorary Members only ten days before his death when no one supposed that he had reached the round of life. His death at 66 is premature. It is a loss to the human race.

He was equipped for this work better than any scholar living and it is a shock and blow to the students of Bacteriology and Pathology, as they stand at the bier of the greatest of the pathologists of our era who has passed out of the acknowledged leadership of scientific study and research this bereavement affecting all men of science.

JOURNALS AND BOOKS.

THE LAW OF LABOR UNIONS.—By W. A. Martin, John Byrne & Co., Washington, D. C., Publisher, 1910.

The want of a carefully prepared Volume on the Law of Trade Unions and the Decisions of the Courts on the general subjects of the controversies between the Employers and the Employed and of Combinations of Capital and of Labor, is recognized by the profession.

The Volume which Mr. Martin has published is the first exhaustive and carefully prepared treatise on the subject, that we have seen. Mr. Martin is the author of "Adverse Possession," and has had an experience as reviewing editor of the *Cyc* which has qualified him for the literary labor involved in the production of this Volume which is issued in the best style of Modern Law Books, admirably printed, on very good paper, and runs to 650 pages.

This work contains 28 chapters, and an Appendix which has been very carefully and elaborately prepared, relating to the Forms of pleading, injunctions, restraining orders, etc., which with the Index and a Table of cases occupies nearly 200 pages of the work. The right of Workingmen to Combine, and the purposes for which said combination is lawful, are discussed with great care in Chapter 2. The means by which the purposes of such combinations may be rendered effective is the subject of its third chapter; and the whole question of Strikes is considered and discussed from the legal standpoint of the decisions of the various Courts of the Country cited, reviewed and discussed with marked ability. This chapter alone is divided into sections 33 in number, and occupies 60 pages of the work and this is certainly the most able treatise on the subject which has yet been published. Chapter 5 is devoted to consideration of the acts which have been passed in furtherance of strikes and the enforcement of the right granted by the law to workmen of the right to strike and secure better conditions from their Employers; and the decisions of the Courts in the several States of the American Union, bearing upon the question involved in the controversies arising in contentions between Capital and Labor where the rights of the Labor Unions and of the employers have been made the subject of a legal controversy. Chap-

ter 6 is devoted to the subject of "Boycotts," which is also considered under the following heads in different chapters, "Boycotts of Capital and the law relating thereto," in Chapter 7 and "Pleadings and Practice in actions arising out of Boycott of Capital," in Chapter 8. Chapter 9 is devoted to "Boycotts of Labor." Chapter 10 is devoted to the Liability to Workmen for preventing others from working; by force violence or intimidation, and the 11th to the exercise of the Unions of Disciplinary measures against their members. All of these chapters cite and review the various cases that have arisen in the several states in this country upon these subjects, and show great research. This volume is by far the most complete and perfect work of the kind that has yet appeared.

Chapter 12 relates to the contracts between the Unions and the Employers relating to the employment of Union men only. Chapter 13 is devoted to the subject of "Picketing," to which considerable space is given.

Chapter 14 relates to the interference with and the obstruction of the Interstate Commerce Law.

Chapter 15, reats of the Obstruction of the Mails. Chapter 17 is devoted to the consideration of the questions of actions against Labor Unions.

Chapter 18 is devoted entirely to consideration of the question of Contempts which is most exhaustively treated.

Chapter 19 is devoted to the rights of Employers in respect to Contracts and the validity of the laws which restrict the Employers rights.

Chapter 20 is devoted to "Lockouts" and acts in furtherance of "Lockouts."

Chapter 21 is devoted to the Combination of Employers, as against the rights of labor

Chapter 22 to the Decision and cases relating to what is called "Blacklisting" and 23, 24, 25 and 26 relate to the internal administration of the "Labor Unions" and their rights and powers of the officers and membership and their internal administration with the decisions of the Courts bearing upon controversies of this kind

Chapter 27 is devoted with careful research to the subject of "Union Labels," their validity and the decisions of the Courts respecting them.

The profession will generally feel under obligation to Mr. Martin for having devoted so much care and attention to these subjects which have been done in a masterly way.

NOTED MEN AND WOMEN, by James W. Morrisey, Esq., Klebold Press, New York, 1910.

Mr. James W. Morrisey is one of the ablest men of his profession to handle an artist or a celebrity in our city. He has few equals and no superiors.

He has turned Author and made a very readable and entertaining book of 300 pages selecting about 70 of the most eminent and distinguished, out of the hundreds he has managed, before the public great artists lawyers, journalists, generals, and noted men and women and his selections are personal to each.

Mr. Morrisey is a most accomplished artist himself, and manager.

He gives the best points of the people of whom he speaks as he knew them and saw them and his book is vastly entertaining and interesting.

Mr. Morrisey shows skill in the arrangement of his material and will perhaps continue his selections from those with whom his professional life has thrown him into intimate personal contact in later volumes.

THE GREEK AND LATIN CLASSICS, Vincent Parke & Co., New York, 1910. This is an elaborate, comprehensive work with a superb list of editors and contributors selected from the Professors of the leading American Universities and from the English, Scotch, and Irish Universities in Great Britain.

It embraces the very best array of translators of the Greek and Latin classics and of those recognized as translators in the front rank of

the living and of the dead translators, poets and teachers, of the 15th, 16th, 17th, and subsequent centuries.

THE GREEK CLASSICS occupy VII Volumes of the Work. I. Epic Literature, Divided into two Volumes. III. Poetry. IV. Biography and Oratory and Science. V. History. VI. Philosophy. VII. Drama, Romance and Satire. Embracing the entire field of Greek Literature.

THE LATIN CLASSICS is as comprehensive embracing eight Volumes taking every Latin writer under like headings. Marion Mills Miller, Litt.D. of Princeton, is the Editor in Chief; and the thirteen collaborators, editors and contributors are selected from the ablest names from John Hopkins, Harvard, Yale, Columbia, Princeton, Cornell, University of Pennsylvania, Catholic University of America, Chicago, Michigan, Toronto, California and Tulane Universities.

The Foreign Editors and contributors are from the universities of Dublin, Edinburgh, Cambridge, Oxford and include the ablest literary names of Great Britain. The announcement contains 57 pages in classifications of authors, titles and of the Greek and Latin Classics compiled with great care.

This great work is published by subscription on a scale never before attempted and surely must appeal to all scholars of the Greek and Latin classics in the professions of Law, Medicine, and indeed in all the professions, and of the scholars among the laity and of the educated graduates everywhere.

HEREDITY AND ENVIRONMENT.

The Medical Record also takes up this interesting question so ably introduced by Dr. Henry Maudsley's book, from which we quote approvingly:—

Galton says that the possibility of improving the race of a nation depends on the power of increasing the productivity of the best stock. This, it believes, is far more desirable than that of repressing the production of the worst. Civilization has done away with the elimination of the unfit to a great extent. The days when an individual who could not earn his living or get his living had to die have gone, and man is no longer subject to the unrestrained laws of natural selection. For example, he prevents some diseases and cures others, makes life possible for the feeble, and ailing, and the malformed and affords them the opportunity of propagating their kind. By some of his laws and customs, indeed, he sets the principle of natural selection at defiance and seems to pave the way for physical and mental deterioration, and even for degeneration. Rousseau and his school held that civilization involved degeneration, but without going so far as this it may be said that where civilization is, there also is degeneration.

After all man is more dependent upon brains than upon muscle. The mental powers of a Pasteur, a Koch, or a Lister are worth more to the world in every way than the muscles of a Jefferies, a Johnson, a Grace or a Hanlan. The puny, sickly, or deformed child, which in primitive circumstances would have succumbed to the law of nature known as the survival of the fittest, may possess, often, indeed, has possessed, the brain of a great discoverer. As a matter of fact such a child in civilized life is as fit to survive as the primitive splendid *animal*. Both are creatures of their environment. Physical excellence is to be desired and every legitimate means should be taken to attain it for a race, but this does not prove that it would be wise, if possible, to try to improve the species by select mating and by methods to prevent the breeding of the unfit.

THE QUESTION OF BOVINE TUBERCULOSIS.

The Medical Record editorially publishes an interesting contribution upon this subject from which we quote:—

"The vexed question as to the transmission of bovine tuberculosis to man has been by no means settled, and this point has been clearly brought out within the past few weeks. Arthur Latham, a recognized British authority on the subject, has contributed to the *Medical Chronicle* for May an article entitled "The Conquest of Consumption," in which he indicates two main sources of the seed supply of consumption: (1) expectoration of sufferers from the disease, and (2) the products of the cow—milk and butter. At the preent time, no disagreement eixsts among medical practitioners with regard to the spread of pulmonary tuberculosis by means of expectoration. Germans, Americans, and British, as well as students of other nations are all agreed in thi connection. But, with respect to the other somewhat dogmatic statement of Lathan, opinions differ. The German school generally, with some brilliant exceptions, take the view that bovine tuberculosis is not transmissible to man, while a few hold that if it is transmissible, it is only so to such a small extent as to be almost a negligible quantity. Many Americans are in accord with this belief and are sceptical as to the transmissibility of the cattle form of the disease to the human being, or, granting that the two diseases are practically identical and therefore transmissible, contend that only a small percentage of young children are susceptible to infection. On the other hand, British observers almost as a body, believe in the transmissibility of bovine tuberculosis to man, and with them in this belief are a very large number of the medical profession of this country."

"Lathan, being as he is, a hard and fast exponent of the British views, is, of course, convinced that a very considerable amount of the disease is disseminated by the agency of milk. He states that 20 per cent. of the milk supplies of towns in Great Britain and 10 per cent. of the butter supplies contain living tubercle bacille capable of causing disease, and that one glass of milk out of every sold across the counter may carry the seed of death to one of the adult British population and to children. This language, perhaps, will strike one who has made any study of the matter as scarcely sufficiently restrained. As said before, it is likely that the majority of American physicians do believe in the possibility of bovine tuberculosis being transmitted to young children by infected milk, and in Great Britain the greater part of the medical profession is of the opinion that infected milk is an important factor in the spread of tuberculosis among children. But they are comparatively few in number who assert that infected milk is the cause of pulmonary tuberculosis in adults."

The Medical Record is edited by Dr. Thomas L. Stedman, M.A.M.D., who is perhaps more than any American Medical Editor in touch with the current literature of American and Foreign writers on this subject than any of the professors in American Universities could be, or than the general practitioner. It is precisely this serious difference of opinion among the ablest thinkers upon the subject that has led to the postponment of the American International Congress on Tuberculosis until next year and it was to this very subject that the attention of the foremost scholars and scientists of the country will be addressed. The use of the *Tuberculin Test* would be condemned in Germany and except for diagnostic purposes in France and to a great extent in England, and yet physicians in America who are not thoroughly educated upon the subject, are reported to be using the Tuberculin Test upon human beings, and no more serious questions confront the medical profession to-day in America than whether this should be justified except for diagnostic reasons. Who can define what the effect upon the human being is, to whom the *Tuberculin Test* has been applied? It can not certainly be said that such a person is not infected with the disease to some extent. The precise extent is in doubt. It lends exceeding point and interest to the question submitted by the Medico-Legal Society at its last session not only to its members but to the scientific world, "Is the meat or milk of a cow which has been subjected to the tuberculin test, fit for human consumption?"

MAGAZINES.

The Number of desirable Magazines is now so great that it is beyond the reach and hope of this Journal to notice even one-quarter of them. We shall no longer attempt it. Of the series of note, we may from time to time announce the name of the Journal, and one or more titles of its recent issue that we recommend to our readers, with the name of the Author.

HARPER'S: "The New Surgery." by W. W. Keen, M.D., L.L.D.

LIPPINCOTT'S: "The Cleverness of Mrs. Bland," by Catharine Houghton.

METROPOLITAN: "The Educational Rest," by Hugo Munsterberg and "An American Museum of Safety," by Dr. William H. Tolman.

WORLD'S WORK: "An Anti-Vivisection Exhibition," by Dr. Woods Hutchinson.

COSMOPOLITAN: "The Revolution at Washington," by Alfred Henry Lewis and Vivisection, Animal and Human," by Diana Belais and "Adventures in Neurasthenia," by O. Henry.

THE STRAND: "The Murder at the Villa Rose," by A. E. W. Mason and "What is the Practical Use of Polar Research?" A Symposium of Famous Explorers.

DELINEATOR: "With Our College Boys and Girls at Commencement," by Walter Prichard Eaton, "Seeing Sounds," by Robert Alden Sanborn, "The Social Life of an Army Post," by Gwendolen Overton, "Brother Square Toes," by Rudyard Kipling, and "The Untrained Woman's Chance in Life," by Shannon Monroe.

AINSLEE'S: "A Man's Decision," by G. B. Lancester, "The Cuyler Case," by Kingsland Crosby, "The Tehuana," by Herman Whitaker, "A Love Test," by Kathryn Jarboe, "Subconsciously Conducted," by Adele Leuhrman, "Speculative Inferences," by Jane W. Guthrie, "O'Sullivan's Champion," by Johnson Morton, "For the Crown," by Charles Neville Buck, "The Beauty Parlor," by Carey Waddell, "Around the Bridge Table," by Arthur Loring Bruce, "The Snuckers," by J. W. Marshall, "An Ambassador in Love," by E. M. Lameson, "The Diagnosis," by Owen Oliver, and "For Book Lovers," by Archibald Lowery Sessions.

DESIGNER: "Life's Handicapped," by Mary Alden Ropkins, and "The Apple of Hesperides," by Sara Lindsay Coleman.

WOMAN'S HOME COMPANION: "My Opinion of Suffrage," by Margaret E. Sangster, "Two Kinds of Men," by Hulbert Footner, and "The House of Healing," by Juliet Wilber Tompkins.

McCLURE'S: "From One Generation to Another," by Arnold Bennett, "Animal Behavior and the New Psychology," by John Burroughs, "Senator Platt's Autobiography," and A Department of Dollars vs. a Department of Health," by Irving Fisher.

SUBURBAN LIFE: "A Militant Suburban Doctor," by Edward I. Farrington. "Dining in the Open Air," by Blanche E. Brownell, "The Humor of Suburban Life," and "Mosquitos and Malaria," by F. H. Moore.

GARDEN-FRAMING: "The Peculiar Merits of the Blackberry," by Charles E. Chapman, "Having a Garden in Alaska," by Carlyle Ellis, and "Children's Garden Everywhere," by Ellen Eddy Shaw.

ST. NICHOLAS: "The Haunted Station," by F. Lovell Coombs, "The Young Wizard of Morocco," by Bradley Gilman, "How Tom Whitney Astonished the German Army," and "Books and Readings," by Hildegrade Hawthorne.

PEARSON'S: "Deathbeds and Dividends," by Allan L. Benson, "The Comet," by Winona Godfrey, "The People vs. the Express Companies," by John Brisben Walker, and "Patriotism or Partisanship," by Alfred Henry Lewis.

COLUMBIAN: "Frederic Remington," by Edwin Emerson.

PICTORIAL REVIEW: "You Never Can Tell," by F. Irving Fletcher, "The Fight to Save the Plumage Birds," Lyman Beecher Stowe, Prospective Hospital Patients," by Hilda Richmond.

WIDE WORLD: "How I Shot My First Elephant," by Mary Bridson, "My Visit to Galveston," by Bart Kennedy, "An Amateur Witch Doctor," by W. E. Priestly, and "A Night in a Cave," by Donald MacLeod.

HAMPTON'S: "His Wife and His Work," by Rupert Hughes, "Speaking of Widows and Orphans," by Charles Edward Russell, "A Fighting Chance for the City Child," by Rheta Childe Dorr, and "The Conversion of Alderman Murphy," by Florence Woolston.

CRAFTSMAN: "America's International Exhibition of Painting," by James B. Townsend, "People Who Interest Us," by William George Jordan, Foster Dwight Coburn, May Wislon Preston, Abastenia St. Leger Eberle, and "The Duties of Children," by Marguerite O. Bigelow.

SMART SET: "A Leopardess and Her Spots," by Mabel Thayer Iaccaci," The Tiger," by Julian Hawthorne, "Soul of Man," by Richard Le Gallienne, and "Life," by Ernestine Patsie Vaughan.

NEW IDEA WOMAN'S MAGAZINE: "At the Marriage License Window," by John S. Lopez, and "A Park Episode," by Mabel Herbert Urner.

CASSIER'S: "The Railroad of Brazil," by Lionel Wiener, "The Grain Harbor of Constanza, Roumania," by Fr. Bock, and "Electricity on Shipboard," by J. M. Heslop.

ARCHITECTURAL RECORD: "Additions to Chicago's Skyline," by Peter B. Wright, and "The Evolution of Architectural Ornament," by G. A. T. Middleton.

COUNTRY LIFE IN AMERICA: "The Art of Deep Sea Swimming," by Horlf Wisby, "The Exciting Sport of Inland Lake Racing," by Howard J. Dennis, "Climbing and Camping in the Canadian Rockies," by Agnes C. Laut, "Alfalfa, the Great Forage Plant," by F. D. Coburn, and The New Sport of Flying," by Augustus Post

OUTING: "The Greatest Trout Fishing Town in the World," by C. E. Van Loan, "Atheletics and the Heart," by Dr. Woods Hutchinson, "The Tripod in Camp Cookery," by Frederic L. Baxter, "Adrift in the Louisiana Marsh," by Herbert K. Job, and "Backwoods Surgery and Medicine," by Dr. Charles S. Moody.

DER DEUTSCHE VORKAEMPFER: "The German Child in America," by John Dearling Haney.

NOTICE TO THE MEMBERS OF THE BAR AND BENCH AND FRIENDS OF THE JUDGES WHOSE MEMORIAL TRIBUTES FORM SO MUCH OF THE FIRST NUMBER OF VOLUME 28 OF THE MEDICO-LEGAL JOURNAL.

The Medico-Legal Journal will reserve some copies of this memorial number at the reduced price of 10 copies for $5.00 or the regular price 75 cents for single numbers and all those desiring extra copies will please send their names and addresses to the Editor of Medico-Legal Journal and the copies will be sent.

The September number of the Journal will contain such additional tributes as may be sent from London as to Mr. Stanley B. Atkinson, or Mr. Justice Brewer and the death of Prof. Koch was so near the issue of the Journal that it was impossible to call on the members of the Profession to respond now, but whatever is sent will appear in the September number.

CLARK BELL, Chairman of the Memorial Committee.

THE BULLETIN OF THE MEDICO-LEGAL SOCIETY OF N. Y.

Published annually in serial numbers and on the first day of December in each year at the nominal cost of $1 per annum if paid in advance. The subscriber to have the right to have the year divided in two parts or bound in one volume at the close of the year at his option. If in cloth $1.50 per volume, in paper $1.00 a volume, postage added.

Volume 1 will be devoted to the work of the society for 1910 and some part of the year 1909 if there is room. The work to be published thus cheaply because it is to be printed from the type used in the Medico-Legal Journal so as to save the expense of composition.

The work is to be edited by Clark Bell, Esq., and published under the auspices of the Medico-Legal Society.

The leading societies, foreign and home, are many of them publishing bulletins in annual volumes.

The Medico-Legal Society of France.
The Medico-Legal Society of Belgium.
The Medico-Legal Society of Rome.
The Medico-Legal Society of London.
The Belgium Society of Mental Medicine.
The Russian Society of Psychiatry and Neurology.
The Italian Society of Freniatria.
The Bulletins of the various Societies of Anthropology, Home and Foreign.
The Journals devoted to Mental Medicine, Neurology, ond Psychiatry, Home and Foreign.
The Journal and Bulletins of the Societies of Criminology and Penology, Home and Foreign.
The Journals and Bulletins of the Societies Home and Foreign on all subjects relating to Forensic Medicine.

The illustrations to be those used or intended for the Medico-Legal Journal which has consented to allow these to be used without charge except actual cost of reproduction, press work, printing and paper.

For the year 1910 more than 150 pages of matter are now in type in Volume 27 of the Journal and will be embraced in June, September and December, 1910 numbers.

All the members of the Medico-Legal Society and of its sections are invited to secure this work at $1.00 and postage payable in advance to Clark Bell, Treasurer of the Bulletin of the Medico-Legal Society at 39 Broadway, New York City.

MEDICO-LEGAL JOURNAL,
39 Broadway, New York City.

BELL'S MEDICO-LEGAL STUDIES.

Vol. IX will appear shortly and be issued to those in Parts; Part I now ready, and Part II at the close of 1910 for $2.00 or $1.00 for each Part.

Part I will contain all the Memorial action on Judges, Patterson, Truax, and also on Brewer, Bartlett, George H. Williams of Oregon, Stanley B. Atkinson and Robert Koch.

The transactions of the Society since December 1909 meeting; the Constitution and By-Laws of the Society and its Honorary and Corresponding Members and will be issued annualy thereafter in Parts, I and II.

Those desiring copies communicate with the

MEDICO-LEGAL JOURNAL, 39 B'way, N. Y. C.

ANNOUNCEMENT TO THE MEMBERS OF THE MEDICO-LEGAL SOCIETY, THE PRESS AND THE STUDENTS OF MEDICAL JURISPRUDENCE.

The forthcoming June and September numbers of the MEDICO-LEGAL JOURNAL will contain:—

MEMORIAL ACTION on the following eminent deceased members, late Honorary Members:—

Judges, EDWARD PATTERSON, Presiding Justice of the Appellate Division HON. CHAS. H. TRUAX, late Senior Trial Justice of the Supreme Court, by Judges, JOSEPH F. DALY, ABRAHAM R. LAWRENCE, HON. JAMES H. HOUGHTON, VICTOR J. DOWLING, of the Bench, CLARK BELL, Esq., JOHN J. DELANEY, Esq., and WILLIAM A. PURRRINGTON, Esq., of the Bar, and the Press.

Also the MEMORIAL ACTION on the following Honorary and Corresponding Members:—

HON. DAVID J. BREWER, of the Supreme Court of the United States; HON. STANLEY B. ATKINSON, Hon. Secretary of the Medico-Legal Society of London, from its list of Honorary Members; HON. EDWARD T. BARTLETT, late Associate Justice of the New York Court of Appeals with tributes from the Bench of that Court and contributions from Judges IRVING G. VANN, WILLARD BARTLETT, and CLINTON GRAY, fro that Bench, from its roll of Corresponding Members. HON. GEORGE H. WILLIAMS late Justice of the Supreme Court of Oregon Territory, one of its early Corresponding Members with tributes from United States Senators GEORGE E. CHAMBERLAIN and JOHNATHON BOURNE of Oregon, with the action of the Bar of Portland, Oregon, and extracts from Ex-Senator JOHN M. GEARIN, Chief Justice F. A. MOORE, Judge R. G. MOWER, W. R. GILBERT, and HON. CYRUS DOLPH, of the Bench and Bar of Portland, Oregon; with an address by the HON. SIR JOSEPH *Walton*, of the Supreme Bench of England as President of the Medico-Legal Society of London and of HON. STANLEY B. ATKINSON, of the London Bar.

These will be illustrated with portraits of many of the deceased Judges and will be furnished at nominal cost of 50 cents each, if notice is sent to the Journal.

Vol. IX of Bell's Medico-Legal Journal, Part I and Vol. I, Part 1 of the Bulletin of the Medico-Legal Society for 1910 will be ready early in July and will be furnished the former at $2.00 the latter at $1.00 and postage payable in cash in advance sent to the Medico-Legal Journal at 39 Broadway.

The Medico-Legal Journal also announces the postponement of the Joint Session of the American International Congress on Tuberculosis with the Medico-Legal Society of New York to the Fall of 1911 on account of the untimely death of Prof. Dr. Robert Koch, and the doubt now existing as to the true and exact relation between Bovine and Human Tuberculosis which will constitute a special subjcct of study at the Congress of 1911 to which contributions will be called for addressed to Clark Bell, Esq., Chairman of the Executive Committee. Dr. E. S. McKee of Cincinnatti, Ohio, or the President of the Congress Dr. George R. Tabor, of Dallas Texas, late Health officer of the State of Texas.

The officers of the Cngress remained unchanged except by death, the membership fee is only $1.00 per annum which entitles the member to the Medico-Legal Journal free if paid in advance to the Medico-Legal Journal for the years of 1907, 1908, 1909, 1910, and 1911.

The propriety of the use of the *Tuberculosis Test* will be discussed both for treatment and diagnostic purposes in pulmonary tuberculosis and contributions will be received and solicited.

The early history of the State Hospitals for the Insane; the Judicial History of the States and provinces of North America will be continued and the work of the Medico-Legal Journal and the Medico-Legal Society continued along the lines of investigation now progressing in its columns.

Address Medico-Legal Journal, 33 Broadway, New York City.

SIR JOHN TWEEDY.

Prsident Medico-Legal Society of London.
Honorary Member Medico-Legal Society of New York.

MEDICO-LEGAL SOCIETY OF LONDON.

Presidential Address.

By Sir John Tweedy.

At a meeting of this society held on October 25th, 1910.

Sir John Tweedy, the President, delivered an address upon the Influence of Social and Legal Restrictions on the Practice of Medicine. The history of medicine, he said, including surgery, furnished many instances of the deterrent effects which various regulations and restrictions, risks and penalties, had had upon the practice of medicine. In some cases the restrictions and penalties had been imposed by external authority, in others they had been imposed by real or by quasi-medical authority, and in others they had had their origin in the peculiar civil and social conditions of the time. Besides these there had been esoteric influences at work, due to the difficulties and dangers inherent to practice at a time when knowledge was imperfect and the methods of diagnosis and treatment defective and uncertain. Egyptian medicine and its practitioners had been famous in very early times. In the fourth book of Homer's Odyssey we are told, "In Egypt each man is a physician skilled beyond all mankind." Herodotus, writing in the fifth century B. C., stated that medicine was practised in Egypt on a plan of separation, each physician treating a single disorder and no more. And so the country swarmed with medical practitioners, some undertaking to cure diseases of the eye, others of the head, others again of the teeth, others of the intestines, and some diseases which are not local. This elaborate specialization might in one sense be regarded as evidence of a high degree of proficiency, but it was also evidence of a somewhat restricted training, inasmuch as the practice of most of the specialties was hereditary and each person studied only one specialty. Medical knowledge and skill had attained their high level under the fostering care of the hereditary priesthood, but after a certain stage of development was reached the sacerdotal influence proved hostile to all experiment and progress. Egyptian physicians were obliged to treat their patients according to the rules laid down in those parts of the sacred book of Hermes which dealt with the body and its diseases. The death of a patient was a capital crime if it was found that he had been treated in another way. It was true that deviations from, and approved additions to, the sacred prescriptions were occasionally made, and Aristotle observed that even in Egypt a physician was allowed after the fourth day to alter the treatment prescribed by authority, while if he did this before he did it at his peril. In striking contrast to the rigid regulation of Egypt it might be noted that in ancient Greece there seemed to have been no liability for malpraxis, while in regard to ancient Rome, Pliny complained that there was no law to punish the ignorance of physicians, a physician being the only person who could kill a man with impunity. From the recently discovered code of laws promulgated by Hammurabi about 2300 B. C., it has been learned that liability for malpraxis was severe in ancient Babylon. If a medical man treated a person of position for a severe wound with a lancet of bronze and caused the patient to die, or opened an abscess of the eye with a bronze lancet and caused the loss of the eye, the surgeon's hands were to be cut off. With such a penalty in prospect, it was surprising that there had been anyone willing to undertake the treatment of any surgical case whatever. The retaliatory mode of settling a surgeon's bill in the time of Hammurabi was, however, scarcely less drastic than that which obtained in Europe 3000 years later. In

the plague which visited Europe towards the end of the sixth century one of the victims was Austregild, Duchess of Burgundy. Prior to her death she accused the physicians of administering potions intended to kill her, and she entreated the King to avenge the crime. After the obsequies had been performed the King discharged the oath which he had freely given, and satisfied the posthumous desire of the princess by slaying her surgeons according to the old Teutonic law. The laws of the visigoths, for example, laid down that if a physician blundered in blood-letting when the patient was of noble birth so as to debilitate him he should pay a fine of heavy damages. If the patient died the surgeon was delivered over to the nearest relative of the deceased, who thereafter became the absolute arbiter of his life and death. In the early part of the fourteenth century Pope John XXII. having accused his physician barber of seeking to bring about his death by sorcery and poison had him flayed alive. The same Pope burnt at Florence another of his physicians as a sorcerer, upon the denunciation of a professional colleague, and yet the Pope himself was a believer in astrology, sorcery, and witchcraft. About the same time John, the blind King of Bohemia, who was killed at the battle of Crecy wildly but heroically fighting at the head of his knights, caused the French surgeon who had failed to cure his eye to be sewn up in a sack and thrown into the river Oder. The legal, social and civil penalties to which surgeons in the Middle Ages were exposed accounted for much of the timidity and reserve of mediæval surgery. Other causes peculiar to the state of surgery at that time were the ignorance of anatomy, the dread of hemmorrhage and the imperfect means of arresting it, and not least, perhaps, the contempt with which surgery was regarded by the clerical physicians of that time. "O God," exclaimed the famous Italian surgeon, Lafranc, towards the end of the thirteenth century, "why is it that there is now so much difference between a physician and a surgeon, except that physicians have abandoned manual operations to laymen? *They* say it is because they disdain to work with their hands, but *I* believe it is because they do not know how to perform operations." Leopold, Duke of Austria, the captor of Richard Cœur de Lion, had had his leg fractured by the kick of a horse. The limb mortified and amputation was necessary, but no surgeon could be found willing to undertake the operation. At length, unable to bear his pain, the operation was performed by the Duke himself holding an axe to the limb while his chamberlain struck the axe three blows with a mallet. But the Duke's sufferings continued and the inflammation spread to the body. The bishops seeing him in such a state of misery and suffering admitted him to the communion of the faithful, "after which," said Roger of Wendover, "he expired in dreadful agony."

The scarcity of surgeons and their reluctance to undertake the treatment of serious cases in distinguished persons was exemplified in the case of Mathias Corvin, King of Hungary, who, having been wounded in the arm in a battle with the Turks in 1468 caused it to be known throughout Europe that he would liberally reward anyone who would cure him. Many months passed before a surgeon offered his services. At length Hans of Dockenburg, a surgeon living at Strasburg, went to Bohemia, cured the king, and returned to his home rich in rewards and reputation. The dread of undertaking the treatment of serious cases was almost an obsession with mediæval surgeons. Guy of Chauliac, who flourished in the fourteenth century, and was the greatest European surgeon from the time of Hippocrates to his own day, warned surgeons against undertaking what he designated "bad cures"—*malas curas*. In Guy's case the warning was mainly based upon considerations of the personal risks to which the surgeon exposed himself. It was noteworthy, however, that the writer of the

Hippocratic treatise "De Arte" also advised physicians not to undertake desperate cases, but it was not the dread of personal consequence that influenced him. It was the observance of an enlightened and logical principle. "Medicine," he said, "is the delivering of sick persons from their sufferings, and the diminishing the violence of disease, and not the undertaking of treatment of those who are overcome by sickness, because the medical art here is of no avail." He argued that medicine was an art, and when a person was afflicted with a malady beyond the power ofthe therapeutical resources of medicine one could not expect art to triumph. The consideration of the difference in attitude between the Hippocratist and the surgeons of the Middle Ages suggested the inference that wherever and whenever the medical profession and medical practice had been most highlv organized, the penalties for failure and ill-success had been most humane; and wherever they had been less organized the penalties had been harsh, vindictive, and often inhuman. In the more highly organized state of medicine practitioners had been better educated and more skilful, bolder and yet more cautious and circumspect, and therefore more trusted. When the organization had been imperfect the number of educated physicians and surgeons had been fewer, while quacks and charlatans had been most numerous and most unconscionable. Brunus, writing in the middle of the thirteenth century, stated that the majority of those who practised surgery in his time were uneducated, rustic, and stupid. Many of the surgical practitioners from the fourteenth to the sixteenth century belonged to a special class called Operators. These practitioners performed operations which were either forbidden to the clerical physicians or were abandoned by the Masters of Surgery, such as hernia and cataract; in fact, all the operations the consequences of which might be grave or fatal. Not a few of the operators belonged to the category which Guy of Chauliac, for good reasons, designated "coureurs." They had no fixed abode, but led a wandering life, travelling from town to town, and from country to country, in search of patients and of cases requiring operation. Pierre Franco, who lived in the middle of the sixteenth century, was a distinguished and skilled member of this class of operators. He complained more than once of the contempt which the physicians of the day had for the work of surgery and for the operator. And he observed, not without a touch of acerbity, that if a patient died in the hands of the physician, the physician was always excused in some degree, and so also with a surgeon who did not practice operations; "but when what *we* undertake does not always succeed as happily as we could wish, we are called *murderers* and *executioners*, and have often to take to our heels."

Upon one other aspect of the subject Sir John Tweedy touched in a few words in conclusion. In ancient Greece and in ancient Rome slaves were employed to do menial tasks and much of the industrial work. There were, however, some slaves of a higher order who were skilled in branches of learning or of art, and who acted as secretaries (like Cicero's beloved Tiro) or copyists, librarians, pedagogi or tutors of children. Some had considerable knowledge of medicine and surgery. While these gifts generally insured good and even kindly treatment, they often lessened the chances of gaining complete freedom. The slave was often manumitted, but he still remained in a position of suborindation to his master, and could seldom return to his native land if he so desired. Sir John Tweedy trusted that his remarks had been sufficient to establish his thesis—viz., that the restrictions and restraints placed upon the practice of medicine in former times, and the penalties incurred under liabilities for malpraxis, had done much to hamper the practice of surgery and to check the progress of medicine. A glance at the existing law relating to the

medical profession sufficed to show how far they had travelled on the path of reason and humanity. In this respect at least it might be said that they had passed from contract to status. No medical man now made a contract guaranteeing a cure. Chief Justice Tindal laid it down that "everyone who enters a learned profession undertakes to bring to the exercise of it a reasonable degree of care and skill. He does not undertake if he is an attorney that at all events you shall win your case; nor does a surgeon undertake that he will perform a cure, nor does he undertake to use the highest possible degree of skill, but he undertakes to bring a fair, reasonable, and competent degree of skill." So also with respect to penalties. Chief Baron Pollock in the case of R vs. Crick remarked: "It would be most fatal to the whole efficiency of the medical profession if no one could administer medicine without a halter around his neck." Similarly Mr. Justice Park: "It would be a dreadful thing if a man were to be called in question criminally whenever he happened to miscarry in his practice."

THE SOUL DEFINED.*

By W. Frederic Keeler, of New York.

Acquaintance with the soul is attributed to the religionist, the poet, the dreamer. Such acquaintance has not been claimed by science and until it is, owing to our materialistic time, the very existence of soul is prone to be denied.

Science in its effort to seek what it calls the soul is in itself misdirected, for its search is aimed at the discovery of some refined substance or vibration as a part of being, which substance shall lie closer to the source of life than any it now knows. In reward of this search different kinds of vibration and radiation have been proven as existing within and around the body. The N ray is one of these and this has been reflected upon florescent screens and its laws and activities studied. Thought vibrations have been photographed and much is known concerning them; but if *all* were known concerning the vibrations, and forces, which are actively essential to the life of man, we still would *not* have determined the existence and the properties of the soul, for the simple reason that soul is not vibration nor matter. Notwithstanding this, it is not to be classified an unknowable thing. The fact is that we all know and are quite intimately familiar with the operations and *faculties* of the soul and therefore, to some extent, know the soul.

Confusion lies, in that we do not recognize a certain part of our being with which we are familiar and which is the soul in operation, *as* the soul. We call the soul and its faculties various names of lesser meaning and persist in groping for something mysterious in its stead.

If the word soul stands for something definite, as words should, why, in the name of reason, should science and the religionists totally ignore its most common definition to be found in the dictionaries and sweep that definition aside to look for an impossible, undefinable thing constructed to suit the imagination?

Soul is defined as that part of man which expresses great depth and intensity of feeling and which (depth of feeling) is good. There are but two essentials in this definition, feeling, that is first the emotional power, and, second, some sort of discrimination between right and wrong. Whoever possesses within himself a knowledge of right or wrong, and who is capable of great emotion has soul. Whoever can deny the human ability of discrimination between good and bad,

*Read before the Medico-Legal Society and Psychological Section, November 30, 1910.

and the ability to have deep feeling, can deny the existence of soul, and none other.

It is necessary in the contemplation of metaphysical man that we distinguish between the different parts of his unseen constitution and to the metaphysician the remarks usually heard about the higher qualities and parts of man would better apply to a grotesquery than a being, for soul, spirit, and mind are used interchangeably to express either the same or varied things and entirely without definite meaning.

In the grand oriental philosophies, and life sciences, all these things had their definite definition and place, and when they are given such place in one's contemplation, an added power is brought into the one's being and the understanding of being. The most remarkable thing about the philosophy of the ancients is that the word soul is defined and known exactly as it is defined in the Standard Dictionary to-day. Regarding soul we have thus retained its truth from ancient times to this, but we have lost the *understanding* of that truth and, as usual with things relative to the true life, lost it in the search for the extravagant unbelievable rather than the simple truths at hand.

Confusion in this matter only goes to show the utter lack of real training we possess in things meatphysical. By logical deduction, man would, according to the dictionary, be forced to admit the existence of soul from even the ridiculous premise of the wag of a dog's tail, and further, that soul is a part of the dog's being, for just as long as an animal knows right from wrong and feelingly expresses this, that animal has a soul. Furthermore, as long as we can relate this knowledge and feeling to acts and conditions, which are clearly observable, we shall be able to study the properties of the soul, and anyone who has powers of observation sufficient to know that when a dog believes he has done wrong he drops his tail between his legs and when he believes he has done something pleasing and well wags his tail somewhat horizontally, is able to study soul qualities.

To deny that we feelingly show expression, to deny that any living creature lacks some slight regard of what it may place as right for and best for it, is to deny the slightest existence of intelligence, whether that intelligence deals with the question of soul or any other question. To deny soul we must deny these things which underlie all intelligence and all feeling.

In the study of soul, then, it becomes first necessary for us to adjust our wandering thoughts and ideas to the acceptance of this proposition that emotion and the mere discrimination of what is best for one's self, is, covers, and entirely embraces every faculty and property of the soul.

Those who would hunt the soul with the scalpel and scales may be earnest in a search for some deeper property of man, but in the search for the soul they are lost in the forest of things.

Just as motion is a property and the greatest property of physical expression, and just as movement is the life of the physical body, so emotion is the life of the soul. Emotion is to the soul what movement and motion is to the body: it is the soul's activity, the soul in expression. The ancients were perfectly right in citing the heart as the organ through which the soul expresses itself, for in utter truth the heart is that physical organ which is most expressive of both soul and physical qualities. It is, in expression, the physical link between soul and body. The action of the heart is changed by physical movement, for physical exertion raises its beat and activity. One thing and one other thing only can immediately effect its usual operation and that is emotion, which is readily also capable of changing heart activity. In another way it bridges the physical man with the deeper man, because he can by voluntary effort cause this change and because the change will occur involuntarily. That which occurs voluntarily is of this

mortal world. That which arises involuntarily is of the higher places. The relationship of soul to body does not exist *within* the heart, but if we accept the heart as a symbol of the soul and keep its actions, as we know those actions, in mind we shall not lose the true trend of soul thought.

The soul is different from pure spirit in that it has and expresses feeling. Spirit is always in perfect calm and poise. It is self-sufficient. In the realm of pure spirit there is no differentiation; all is well, and there is therefore no emotion. With the soul, however, while all is well, there is feeling, and feeling is the life of the soul. Also the soul needs and thrives upon contact, as will later be shown, and spirit knows no contact, for it is always the same in all.

Soul differs from mind in holding this one *feeling* quality, for we can think without feeling, but we cannot feel without involving the soul. If a state of being is one in which we both think and feel, it is the one involving both mind and soul. If we add to this an unselfish aspiration, we have included in our state and the thoughts and acts which result therefrom a spiritual quality.

While it is perfectly true that all states of being involve all these essential parts of man, it is also true that we can and should study each distinct part to better learn of their relationship.

From the standpoint of utter spirituality, we know that all is good, that in the eyes of God there is no evil. But from the soul standpoint we know that there are some things better for us than others. The soul in reality knows no evil, but concerning all these things of good *it* discriminates and knows those things *as* best which give rise to *great depth* of feeling, for such feeling is to the soul life and adds greater measure of life; therefore it sees, seizes and appropriates. That which it does not appropriate is not necessarily bad in the eyes of God and from the standpoint of truth *absolute*. The soul and the soul only discriminates without a consciousness of evil. All other discrimination is with a consciousness of evil. There is no such thing as a *bad* soul quality. All souls are good. But some of us are said to have more soul than others. There are no bad souls, although there may be and undoubtedly are very small ones as to power of daily life expression. This is true, but true only as to our ability to express and use the soul qualities in this life.

We live upon many planes and one of those planes is the soul plane, wherein all is feeling and all is love for within the whole realm of feeling there is nothing that is impure.

The ethics of the soul stand distinct from all other systems of right and wrong and it is well that we know and so far as possible live by them that we may express and have more life.

To the soul, that which is constructive and of deep feeling is good no matter *what* it is. Our attitude to the animal life below us will most clearly illustrate this. What man or woman of to-day is there who does not believe himself or herself superior to the animal and of greater ability to discriminate between right and wrong. I earnestly challenge the human race regarding this claim in part. No human being possesses the innocence and the purity of life that results from innocence that is possessed by every brute creature.

Every department of animal life, in mating, care of and love for the young, and in the seeking of daily sustenance is lived true to the emotions and feelings, for this is the life true to nature. Thus does the soul run true in its primitive channel and lay the foundations of its further evolution. Are the feelings of the human always expressed thus true to real natural life impulse?

(To be continued.)

BRAZIL'S PROGRESS IN PSYCHIATRY, NEUROLOGY AND LEGAL-MEDICINE.

By the Editor.

We reproduce from the Journal of Medical Medicine the report of Dr. J. Moraira, as to Brazil.

An adequate review of the progress of psychiatry in Brazil during the past two or three years is not an easy task. The greatest Republic of South America is so unknown in Europe, the progress accomplished in asylum care and treatment and psychiatrical instruction is so remarkable, that any statement of the facts within reasonable compass is difficult.

From another point of view, the selection of what will be of interest is a matter of some difficulty.

Having a vast area of over 8,524,000 ks., and a population of 25,000,000, the United States of Brazil offers an admirable field for the study of the comparative racial pathology of insanity.

Statistics having proved an increase of insanity, the Government has been obliged to make more extended provision for the care of the insane.

In 1903 I succeeded in obtaining from the Federal Congress some reform of the care of lunatics in Brazil. December 22nd saw the promulgation of the new Lunacy Law, which for the last fifteen years has been lingering in the Legislative Congress.

The law is a public guarantee against arbitrary sequestration, provides for the safe keeping of the property of patients, and gives to the medical director authority over the administration necessary for the welfare of the patients.

The federal decree No. 5,125, of February 1st, 1905, was issued giving regulations for the application of the new Lunacy Law. The law establishes that all asylums, public or private, shall have a part absolutely independent of the rest of the asylum, with a separate staff, for the reception of new case. They are to have workrooms, and, if possible, a farm, for those patients who will employ themselves, also places for the isolation of the dangerous cases, those suffering from infectious diseases, and for those charged with some offense at law, the medico-legal investigation of which is proceeding.

The law permits a patient to be cared for at home. In all cases these homes are under the supervision of the commission of vigilance, nominated by the Minister of the Interior and Justice, and constituted by the Attorney-General of the Republic, the Attorney of the Orphans, and the Medical Inspector, a reputable physician with experience in the treatment of mental and nervous dieases.

The rules establish a school for the teaching of attendants and those who aspire to these posts. No person is permitted to resort to any means of restraint without an express order written and signed by a medical officer of the asylum. There are a number of precautionary measures against the possibility of arbitrary sequestration. The new Lunacy Law has had a very beneficial effect.

The National Hospital for the Insane at Rio de Janeiro has been radically remodelled. Many pavilions have been built: two pavilions for epileptics, two for contagious diseases, two with verandahs especially for the outdoor treatment of phthisis, one pavilion for idiots, two dining rooms, a very good modern kitchen, new laundry, workshops (printing office, book-bindery, carpentry, blacksmith, dressmakers' shop, etc.) a new mortuary, engine room, etc. A very good pathological laboratory equipped with all modern improvements, operating

rooms, electro therapeutical installations, and a psychiatric library have been provided. Six new bath-rooms have been equipped in the sections Pinel, Esquirol, Calmeil, Morel, Meynert, and Magnan. Hydrotherapy has been largely practised, and massage has also been found a valuable adjunct in the treatment of several cases of psychoses and a trained masseur is daily employed. This form of treatment has proved of the greatest benefit in cases with defective metabolism. The outdoor treatment of psychoses and tuberculosis has been continued with success.

Dr. L. do Cunha was appointed pathologist, and he undertook the purchase and equipment of the laboratory, after having visited many of the best laboratories in Germany, Vienna, and Paris, where he familiarized himself with the latest and most approved developments of modern neuro-pathology.

With my friend, Dr. Afranio Peixto, in January, 1905, I published the first number of the Archivos Brasileiros de Psychiatria, Neurologia, etc. With the collaboration of the Brazilian alienists, we have already edited five volumes—a vast amount of clinical and pathological contributions to the study of the psychiatry and neurology in Brazil.

At present the teaching of mental science is undertaken in three medical faculties of Brazil—Rio de Janeiro, Bahia, and Rio Grande de Sul—by three professors and three assistants. The clinic of Rio gives opportunity for clinical instructions to the students of the medical faculty of Rio de Janeiro. The professor of psychiatry, Dr. T. Brandao, has occupied the chair for twenty-six years. The equipment of the hospital for clinical investigation is very complete, and not inferior to that of any similar institution in Europe or North America.

The asylum accommodation in Brazil comprises: Federal district, National Hospital for Insane (1,300 beds); the Colony in Governor "Isand" (300); two private institutions; of these the largest is that of Dr. C. Eiras (100 beds).

State of S. Paulo.—Of the states of Brazil, S. Paulo stands foremost in wealth and progress. This state has shown a great advancement in the development of its provision for the public care of the insane. The hospital colony at S. Paulo is one of the best planned and equipped institutions in the world. It is located at Juquery at a distance of rather less than an hour by rail from the city of S. Paulo. It comprises a main hospital with eight pavilions and two agricultural colonies. The plans were made by the architect, Ramos, from the suggestions of Director Dr. Franco do Rocha. Dr. F. Rocha has founded at S. Paulo family care of the insane in Juquery village with good results. Some of the other states, notably Pernambuco, Rio Grande Sul, Para, have institutions of some merit.

The meetings of the Brazilian Association for Neurology, Psychiatry and Legal Medicine were held in Rio at the rooms of the Association. A large number of valuable and interesting papers were read. The demonstration of interesting cases and the discussions which followed were the most instructive part of our meetings. The subjects of hysteria, psychatria, infective delirium, dementia praecox, aphasia, apraxia, etc., were considered.

The year 1909 was especially distinguished in Brazil by the meeting of the First Congress of Psychatry, Neurology, and Legal Medicine, a section of the Fourth International Latino-American Congress of Medicine. The Congress was remarkable not only for the importance of the subjects that were dealt with, but also for the number of distinguished foreign physicians who attended from all parts of South and Central America. The number of papers presented to the Congress obliges us to be brief and merely to indicate the leading contri-

butions. The reader who is desirous for further detail will need to refer to the Archives Brisileiros de Psychiatria.

Aphasia, Pro. Pinero (de Buenos Aires); an Peon del Valle (de Mexico); Alcoholic psychoses, Prof. M. Nery (Rio), Borda, Jones and Morixe (Buenos Aires); Sclerosis, Laterial Amyotrophica, Prof. C. de Freitas (Rio; Infectious Psychoses, Pro. Austregesilo (Rio), Dr. Lamas (Montevideo); Arterio-sclerotic Cerebritis, Prof. Jakob (Buenos Aires), Prof. Moreira (Rio); Epilepsy (Aetiology and Pathogeny), Riedel (Rio), and J. Esteves (Buenos Aires); Dementia Præcox and Thyroidectomy, M. Pinheiro and Riedel (Rio), and Esteves (Buenos Aires); Clinotherapy, Prof. Cabred (Buenos Aires); Tumors of the Frontal Lobe in Man, Dr. H. Roxo (Rio); Urology of Beri-beri, Dr. M. Rego (Rio); Cerebro-spinal Fluid in Dementia Præcox, Dr. A. Viegas (Rio); Apraxia, Dr. E. Lopes (Rio); Medico-pedagogical Education of the Abnormal, Dr. F. Figueira (Rio), Prof. Cabred (Buenos Aires), Dr. S. Rodrigues (Montevideo); The Care of the Insane, Pro. Juliano Moreira (Rio); The Family Treatment of the Insane in S. Paulo, Dr. Franco de Rocha; Cerebro-spinal Fluid in Dementia Paralytica and in Dementia Præcox, Prof. L. da Cunha and Dr. U. Vianna ,Rio); Treatment of Epilepsy, Dr. W. Almeida (Rio); Responsibility in Crimes of Passion, Prof. Lima Drummond (Rio); Medical Secrets, Prof. Nascimento Silva (Rio); Civil Capacity of the Aphasics, Prof. Peon del Valle (Mexico); The Dead After Immersion, Dr. Alf. Andrade (Rio); Indentification in Legal Medicine, Dr. A. Lima (Rio).

The social side of the meeting was as successful as the york, and will long remain as a pleasant memory with those who had the good fortune to be present.—From the Journal of Mental Medicine.

HYSTERIA AND WHAT THE TERM SHOULD AND SHOULD NOT DENOTE, PRACTICAL DEDUCTIONS.

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(1) The recent discussion at the Paris Neurological Society has done much to give precision to the vague conception so unfortunately attached to the word hysteria. It was in 1901, that the Society, after hearing the astonishing definition of Babinski, (2) began the inquiry which has fructified in the conclusions which now emerge after the elimination of poorly observed cases, clouded reasoning, and ill-digested theories.

The suggestions at the root of the symptoms of hysteria, formerly believed to be autochthonous and durable, and termed stigmata, are generally, though not always, of medical origin. It is very significant that Bernheim (3) for fifteen and Babinski (4) for ten years has never seen hemianæsthesia, contracted visual fields, dyscromatosia monocular polyopia, except in patients previously examined medically. The mode of genesis of these symptoms was first indicated by Bernheim (5); and the writer has recently presented the theme in a translation of his communication before the French Neurologicts of Lille (6). Medico-legal examples in the making have recently been adduced by Brissaud (7), as, for instance, that where Dupinet, who had found no hemianæsthesia in a workman after an accident, saw it produced by the examination of another expert. It is impossible, however, to prove a universal negative; and to that extent Déjérine and Raymond are justified in believing that undoubted hysterical symptoms may arise independently of suggestion. But it must be remembered that hemielegia of organic origin is a familiar sight, and that to the lay

mind palsy connotes insensibility. Hence it is not astonishing that a man who believes a limb incapacitated, believes it also insensitive; this, however, is a suggestion. The discovery of basal suggestion in hysteria is proportional to skill in psycho-analysis in genuine cases, and to detective shrewdness in cases arising from mythomania (g).

Many so called hystericals are in reality merely mystifiers, more or less conscious of their deviation from straight forward action. The following cases are examples.

A young girl (9) announced that on a certain day and hour she would die. When the time came she feigned death, resisting with astonishing fortitude all the stimuli used to awaken her from her apparent state of catalepsy or coma. This comedy lasted three days; then she arose and dressed herself, pretending to come out of a dream, and amused herself with the stupefaction of her family and friends. When interrogated by her doctor, she confessed her trick and said that she had never been so happy as she was while watching the efforts, threats and prayers of those around her. In spite of the confession, the same scene, more or less varied, occurred on ten other occasions, although she appeared to be a young woman of good heart and intelligence.

A second case is that of a man in hospital who confessed to concealing a hypodermic syringe in his rectum: and this was not all, for in a moment of exasperation, an evacuation revealed two.

These cases have largely contributed to the confusion of our concept of hysteria. They must be eliminated from a discussion of its nature. So also must be excluded abnormalities of the tendon, skin and pupil reflexes, which are not modifiable by suggestion.

Urticaria, dermatographia, eruptions, oadema, haemorrhages, ulcers, grangrene and other circulatory or trophic pertuations (10) arise from chemical or structural abnormalities, whether in suggestible individuals or not, and have nothing to do with hysteria; nor is the temperature modifiable by suggestion; and the urinary, suderifarous and salivary secretions (10a) are so only slightly, rarely and in so far as the emotional attitude may be perturbed by a suggestion.

The foregoing assertions must not be misinterpreted; for it must be remembered that the tendon reflexes may be suppressed by voluntary muscclar contraction, and the cutaneous reflexes such as tickling, may be inhibited by a strong effort of the will (11).

It must not be forgotten that many intoxicated states which paralyze the neurones which govern he reflexes, also necessarily interfere with the psyche, and give rise among other symptoms, to many of hysterical type. This by no means means the modification of reflexes by the hysterical symptoms: both are effects of a common cause: either may occur independently in accordance with the preponderance of the intoxication upon one or other part of the nervous system.

Many maintain that other psychoneuroses than hysteria are amenable to suggestion. Déjerine, for example, citing the false gastropaths, whom he calls neurasthenics. The writer has elsewhere (12) endeavored to elucidate this source of error, and shows how a false belief in one's inability to digest, whether implanted by medical suggestion or other (i. e. a hysterical fixed idea) produces asthenia by slow starvation and malassimilation caused by the worry of food eaten under fear that it may disagree. The state induced is a secondary neurasthania, and may demand the Weir Mitchell treatment; but the initial cause, the false idea, must be removed by psychotherapy, and until so removed, may again cause failure of nutrition.

Patients suffering from mental debility, dream-like states, Hebephrenia and other forms of dementia praecox (12a), mental confusion, states of emotional pervertion, etc., in so far as they are suggestible, are hystericals; but their whole syndrom cannot be removed by sug-

gestion, as can the case of uncomplicated hysteria. For the differential characters of such states, I must again refer the reader elsewhere (13).

The victims of what has variously been called cerebal neurasthenia, ideo-obsessive psychosis, *maladie de doubte delire de toucher,* latterly psychasthenia, (16) are the antithesis of the hysterical, though many of their symptoms may be simulated by suggestion, and so removed. The essential psychasthenic characters, however, do not accompany a symptom simulated in this way. I cannot better contrast these characters than in the following extract from *International Clincs.*

"The very important diagnosis between hysteria and psychasthenia depends upon the following:—Firstly, As to fixed ideas, their duration in hysteria tends to be long; for though they are easily buried and forgotten, they are resuscitated with great ease and infallibility: whereas in the psychasthenic the fixed ideas are very mobile, but keep recurring voluntarily, and indeed become cherished parts of the individual, and are far more difficult to eradicate than those of the hysteria.

"Secondly, Hysterical ideas are provoked by well defined associations, 'suggestions'; in the psychasthenic, they are often evoked by apparently irrelevant associations, which are searched for by the patient; thus the 'points de repére' are very numerous, cannot be eradicated with certainty, and are often mere excuses for crises of ruminations or tics.

"Thirdly, In the hysteric, the ideas tend to become kinetic; whereas the psychasthenic's constant state of uncertainty causes him to oscillate between 'I would' and ' I would not.' Inhibition is too strong to allow an act, but not strong enough to dismiss the obsession.

"The apnorexia in hysterics derives from a simple idea not to eat, suggested by imitation, extraneously or in a dream. Cases of true loss of the feeling of hunger (15) are not hysterical, but accord with the 'aporexie mentale' of Léségue, in whose days hysteria was ill differentiated. The apnorexie of the psychathenic (16) is secondary to an obsession, usually of shame of body, of being fat or of the act of eating, and is accompanied by numerous stigmata of the psychasthenic state."

It must, however, be remembered that the neurasthenic state favors suggestibility, though it is not of the dynamic kind which the hysterical manifests, but is of a passive, aboulic character.

From the foregoing considerations it follows (1) that from hysteria must be eliminated cases of trickery, simulation and mythomania, (2) that to the syndrom of hysteria do not belong modifications of the reflectivity, (3) that the vaso motor and trophic neuroses have nothing to do with hysteria, (4) that other psycho-neurotic states such as the early period of dementia precox, psychasthenia, neurasthenna, cenesthopathies, mental debility and confusion, dream-like states, emotional pervertions must not be confounded with hysteria.

Having eliminated these negative characters, there remain the very definite conclusions which I quote again from *International Clinics* (17):

"1. That all the symptoms which may legitimately be included under hysteria are imposed by suggestion.

"2. That the state of suggestibility derives from:

"(a) Faulty education, tending to perpetuate and fortify the natural suggestibility of the child.

"(b) Cerebral modifications due to organic causes, the action of which necessarily varies among individuals in accordance with

"(c) The hereditary constitution."

For clarification of the issue we are indebted to Babinski and the discussions which his pertinacity has inspired in the Paris Neurologi-

cal Society; and for a full account of the data, the reader is referred to the records of these (18).

Space forbids even a statement of the theapeutic and medico-legal corollaries of these conclusions. The latter were alluded to in an editorial in November (19) last, and are developed in extenso in a communication to the Second International Congress on Industrial Accidents, at Rome, May 23rd.

A clear conception of the psychological mechanism of hysteria will add enormously to the power of the medical man in controlling the psycho-neurotic element present in so many diseased conditions.

The hit-or-miss psychotherapy-of-encouragement, in many cases does more harm than good. It is as dangerous therapeutically as digitalis or the knife in hands ignorant of pathology. The delicate judgments upon which the treatment depends certainly can not be entrusted to the untrained. However supple-witted may be a pedagogue, priest or mental healer, he lacks the broad training in the fundamentals of clinical medicine in which unfortunately some men who specialize too early in their career are also deficient. Accordingly, the therapy of hysteria, as well as the other psycho-neuroses, can be entrusted with safety only to the physician; and he in turn must rise to the occasion by studying the pathogenesis of these as he now does that of arterio-sclerosis or glandular insufficiency. In the meanwhile, he must have recourse for advice, and sometimes direction, to the few men who have already devoted themselves to this study.

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MR. LLOYD GEORGE ON THE DISTRIBUTION OF WEALTH.

CHANCELLOR, IN THE PULPIT, INDICATES CAUSES OF DESTITUTION IN NOTABLE SPEECH.

BY THE EDITOR.

SCANDAL OF THE IDLE RICH.

Mr. Lloyd George delivered a notable speech at the City Temple on Monday on the occasion of the inauguration of th Liberal Christian Union, which has been formed to carry on evangelistic work among those who never go to church.

Dealing with the unrest that prevails all over the civilized world, he argued that neither Protection nor Free Trade was a remedy, but a complete change in social conditions was necessary, with the State taking the lead.

He contrasted the lot of the wretched, half-starved denizens of our great cities with that of the unemployed rich, who spent their valuable mental and physical powers in the pursuit of idleness.

The Chancellor recited Mr. Chamberlain's six articles of faith, and found great hope for the future in the fact that that statesman had led his party on to a path which, though it might not lead to Protection, would commit them to a policy of progress from which they could not draw back.

He urged the reduction of armaments all round—they now cost £500,000,000 a year—and the opening up of the land for agricultural and dwelling purposes. In conclusion he said: Whatever is done, the remedy must be a bold one. The time has come for a thorough overhauling of our national and Imperial conditions.

SPECTRE OF POVERTY.

The Chancellor stated at the outset that, as one of the chosen negotiators on the conference, he found it difficult to engage in political controversy without doing some mischief. He proposed, therefore, to deal in an unpartisan spirit with the subject of destitution among the masses—a subject with which the league was primarily concerned. Continuing, he said:—

The great unrest among the people in all the civilized countries of the world is beginning to attract special attention. Everything points to the fact that the storm cone had been hoisted, and that we are in for a period of tempests.

Tariff reformers account for this discontent by saying it is attributable to our fiscal system, and that once we adopt Protection our troubles will be at an end. Free Traders seem inclined to ascribe the troubles on the Continent to the excessive dearness of the necessaries of life, which is the inevitable result of high tariffs.

The answer to both is that the causes must be deeper and must be more universal; for the area of disturbance extends from the East to the West.

There is one fact which is full of hope, as far as this country is concerned. The presence of a mass of remediable poverty is common ground to both parties. No section of any consequence will contend that the State cannot assist effectively in putting things right.

MR. CHAMBERLAIN'S PROPOSITIONS.

I am not a Tariff Reformer, but Mr. Chamberlain's historic agitation has helped to call attention to a number of real crying evils festering

amongst us, the existence of which the governing classes in this country were ignorant of, or overlooked. We had all got into the Levite's habit of passing by on the other side.

You wil only have to look at the six main propositions which underlie Mr. Chamberlain's great appeal in order to realize that nothing can quite remain the same once these propositions are thoroughly accepted by a great political party. Those propositions are:—

(1) That this is the most powerful empire under the sun.

(2) That Great Britain is the heart of this empire; strong, powerful, rich enough to send even more of its blood to the remotest member of this huge body.

(3) That in the affluent center of this potent empire there is a vast multitude of industrious men, women and children, for whom the earning of a comfortable living, and often a bare subsistence, is difficult and precarious.

(4) That to alter this state of things needs drastic and far-reaching remedy. He suggests a complete revolution in our commercial system.

(5) That the fact of such a sweeping change involving losses and injury to the fortune of individuals ought to be no barrier to its immediate adoption, since the well-being of the majority of the people would thereby be secured.

(6) The time has come for seeking a remedy, not in voluntary effort, but in bold and comprehensive action on the part of the State.

Ponder over Mr. Chamberlain's six articles of faith, and you cannot but realize the magnitude of the work which has already been accomplished by Mr. Chamberlain's dramatic move. His raging and tearing propaganda will tear up a good deal more than its advocates ever dreamt of when they started it. I never quite realized the poignancy of poverty until I came to administer the Old Age Pensions Act. I found then what an appalling mass of respectable, independent, proud poverty existed among us.

I found cases within a few score yards of the City Temple, where poor women, old and worn, were still working away through the livelong day, starting early, resting late, to earn a wretched pittance, which just saved them from starvation, but never lifted them above privation.

These women earn 6s. and 7s. a week by needlework on garments for women who in an idle hour will spend more on frivolity than these poor people would earn in three years of toil—6s. or 7s. a week for endless labor, parting with 3s. 6d. of it for rent, as they were obliged to live somewhere within the ambit of their work; the remaining 2s. 6d. or 3s. 6d. having to provide food and raiment to keep the poor human machines from stopping forever. (Cries of "Shame!")

A gentleman who has just returned from France assures me that the great railway strike, which for the time being threatened France with social and industrial disaster, was the outcome of a revolt against the sudden and alarming rise which has taken place recently in the prices of food in that country.

This was inevitable, owing to the failure of the French harvests and the heavy tax imposed on the import of foreign wheat and breadstuffs. The French papers have actually been discussing a project for fixing the price of food by Act of Parliament.

In the warm and bright climates of the South, less food, less clothing, less shelter are needed. There the sun is the luxury of the unemployed. (Laughter.) To be without garments is a comfort. One is less sorry for the tattered wretch who slumbers with empty pockets in the balmy shade, than for the careworn peasant who toils for a full, if frugal, meal under the scorching

rays of the Southern sun; but fogs and damp and frost are cruel on rags and wretchedness.

Deadly Contrast.

Out of 400,000 adults that die in the course of a year, five-sixths leave no property which it is worth anyone's while to pick up—a few articles of cheap clothing, and, perhaps, a little furniture, which would hardly pay the rent if it were sold by a broker's man. Out of £300,000,000 that passes annually at death, about half belongs to something under 2,000 persons.

Had the 380,000 who died in poverty led lives of indulgence and thriftlessness and extravagance? And had the 2,000 who owned between them nearly £150,000,000, had they pursued a career of arduous toil and frugality?

I saw it suggested by one able writer that most of the destitution that prevails was traceable to thriftlessness and waste amongst the wage earning classes. (Laughter.) I do not know whether the gentleman who wrote that article ever tried his hand at keeping a family and saving up on 21s. a week.

I do not say that there is not a good deal of misery created owing to bad housekeeping, and that much could not be accomplished if more attention were paid to training women for this all-important task. We seem in our schools to train people for everything but the facts of life.

I do not believe the land of this country is producing half of what it is capable of yielding. One reason for that is that it is held under conditions which do not encourage development. The system of annual Rent Rolls makes it doubtful whether the man who puts in the labor and risks his capital will reap the full reward of his enterprise.

Another source of waste in connection with land is the enormous area of the land of England which is practically given over to sport.

Amongst the many contrast which a rich country like ours presents between the condition of the rich and poor, there is none more striking than the profligate extravagance with which land by the square mile is thrown away upon stags and pheasants and partridges, as compared with the miserly greed with which it is doled out for the habitations of men, women and children. You measure the former by the square mile; the latter is given out by the yard, and even by the foot.

A small number of people like to take their sport in the form of destroying something; the vast majority prefer cultivation to destruction. Some like blood; others prefer bloom.

The former is considered a more high-class taste; but so few of us can afford to belong to that exalted order—they must be content with such humble pleasures as flower gardens and vegetable patches and fruit bushes can afford them.

Country's "Free List."

Next year we hope to produce a great scheme for insuring the poorer classes against the suffering which follows from lack of work; but absolutely no thought has been given to unemployment amongst the upper classes. This is just as grave as the other, and is a prolific cause of unemployment amongst the workmen.

A number of men and women devote themselves to a life of idleness. I am not referring in the least to the men who by their own brains have made the money which enables them to purchase occasional leisure. There is no more hard-worked class of men in the world than this. I refer exclusively to the idle rich. If you take these

men, with their families, and with their very large body of retainers, you will find that they account to something like two millions of the population of this country.

In this country a very numerous class of population, without labor, still live lives of luxurious indulgence, helping each other to do nothing, and a great multitude of others live lives of arduous toil without earning sufficient food and raiment or repose. There is too large a free list in this country. The time has come for a thorough over-hauling of our national and Imperial conditions.

*The Editor of this journal knows no subject of greater interest than the one presented by Mr. Lloyd George in the foregoing paper.

It certainly places Mr. Lloyd George in a most conspicuous position on the live and burning questions of the hour.

We have not the space to comment upon the subject, but shall speak later and shall notice the attitude of the great English journals, on this interesting topic.

The London Spectator has taken up the subject and other journals will follow, and we shall watch with great interest the result.

CRIMINOLOGY AND PENOLOGY IN RELATION TO CHILDREN.

BY CLARK BELL, ESQ., LL.D., OF NEW YORK.

The American Prison Association deserves high praise for its splendid work in this branch of Penological Study. It has aroused a discussion that will be of enormous good as an educator of the students of criminology throughout the world. It has collected by its effort, data and views of the best equipped minds, and has sent me copies of the replies it has elicited, which I take a great pleasure in quoting and reproducing for the work of the Medico-Legal Society of New York, and which I contribute to that body in part and so far as I have room space bring to the notice of our readers and members.

I print a few of the articles I regard as of most value:

JUVENILE DELINQUENTS.

DR. GODIN, ACTING ATTORNEY REPUBLIC AT GUELMA, ALGERIA.

Vagrancy and begging in childhood form the primary school of vice. The city furnishes a great army of these young vagabonds, though the police are well organized. Modern economic life sets the children free to run in the streets without protection from evil influences. The child who runs in the street is fated to vice and crime. Criminality in general has tripled in the last fifty years, and one of the chief causes of this desolating advance is the precocious depravity of children. If we could suppress vagrancy among children the chief cause of this crime would disappear. It therefore becomes a social, rather than a judicial matter.

This prevention of crime can best be effected by strengthening the family. If that is impossible and the family is unworthy the child should be taken away and educated.

We divide childhood into three periods: 1, from 1 to 7; 2, from 7 to 13; that is the school age; 3, from 13 to 18. During the first period the child is in the home and the home should be made better if it is to prevent these children from wandering into the streets, for the home is the normal place for the child to be trained. It is to the child what the soil is to the shrub. If you transplant it it withers. It is then necessary, to prevent juvenile crime, to combat the disorganization of the family which so frequently leads to juvenile delinquency. And the first thing is to overcome the indifference of the parents. They are

*Read before Medico-Legal Society and Psychological Section November 30, 1910.

quite willing to let the children run in the street. We must show them the danger that threatens them there and the evil habits which will be acquired that cannot afterwards be easily eradicated. This cannot be done by law. It must be a moral influence. Lectures to parents cannot be given where they will be instructed and they must be taught how to make the children love their homes and what steps to take if the children are refractory and what authorities or institutions can aid them in their task. Popular universities, workmen's clubs, reading rooms, etc. should be used for reaching the parents and teaching them moral hygiene.

It may be said that this will be of little effect if both father and mother go off to work and leave the child alone at home or under the care of obliging neighbors, for the child will soon be on the street. That is true and is the reason why there should be auxiliary help in the form of maternal schools, day nurseries, guarding places (*garderies*), where the children can stay while the parents are at work and where the parents will be obliged to place them if they cannot care for them at home. These should be free. Of course this means expense, but the government should not hesitate to spend money in saving children.

The school age is important, for the school saves from vagrancy. It is therefore necessary that there should be truant laws. If a child plays truant how shall he be disciplined? In England they have truant schools, but they do not give very good results, as there is a large amount of recidivism,—more than 40 per cent. In my view the whip is more efficacious. It certainly intimidates children. I think it is a mistake to have given it up in schools. It is not long since it was used in the colleges and public schools of France. True, it is no longer the fashion there, but the reason is to be found in the fact that the love of children has degenerated into sentimentality, which, however, does not save them at times from brutal treatment in moments of impatience. Some countries are coming back to this method of punishing children, and some, like England, have never given it up. Whipping, is there used for refractory children and it is found very efficacious. It is sanctioned by law and is applied only with the consent of the parents or guardians, and not to girls. The number of blows varies with the age and a police officer is always present during the application of the punishment. This method ought to be adopted, for it is particularly adapted to lead the child to prefer the primary school to the school of vagrancy.

Truancy is often connived at by the parents, though sometimes, when they are both at work, they think the child is in school. Such parents are fined in some countries. For children of school age there should be places where they can be kept out of school hours while their parents are away. They should have

food supplied in these "*garderies*." For the older ones there should be day industrial schools and vacation schools.

After the school age if the child is not put to an apprenticeship, but is allowed to go out and hunt up work for himself he is again subjected to temptation of all kinds. What is the remedy for this? The guardian societies should come to their aid and help to place them. If that proves impossible, then the state should establish trade schools, where attendance should be compulsory. This will be a great expense to any country, but they are cheaper than prisons.

Germany has set the example here. She has many state apprentice schools. In 1901 Berlin had fifteen for girls and sixty-two for boys, with more than thirty thousand pupils, and the budget for schools was less than the budget for prisons.

If all preventive measures fail and the juvenile delinquent must be punished, how shall that be done? Prison has a deplorable effect on the young. It must be some other kind of repression. It must be educational and reformatory. Any minor under eighteen found guilty should be under the guardianship of the state till his majority and he should be placed in a special school where proper means will be employed for his training and reformation. Girls, as well as boys, should be treated in this way. There should be agricultural and trade colonies to which they should be sent when they have given proof that they can be trusted.

To sum up: juvenile delinquency is almost always the result of poverty, ignorance, a broken family. Vicious instincts have little to do with it. Any measures which lead to uniting the family and improving it will help to preserve childhood from crime. With the combination of private and state assistance it would not be difficult to organize methods to meet this problem of vagabondage, which would be of importance to the children themselves, and to the country at large.

IDLENESS AND BEGGING AMONG CHILDREN.

BY THE ABBE ALEXANDER BIANCHI, FORMER DIRECTOR OF THE REFORMATORY, MILAN.

At the hour of noon—the dinner hour—in Milan, the streets and squares are full of morally abandoned children and young people who believe in no law, religious or secular. They think everything is permitted to them. The police are powerless before this crowd of shameless youth and happy if the brood are guilty of neither murder or robbery. This school of social disorder, with all the obscenity of language which accompanies it, is not peculiar to Milan, but to all great cities. The street is full of evil suggestions for the young—the news stands with their illustrated journals and postal cards full of indecent suggestion, the cinematographs, the cheap theatres. This degeneracy threatens society like a gangrene and demands from the state immediate treatment at any expense. The state has the duty of trying to save these young delinquents. If it saves but ten out of a hundred that is not to be disdained as a result of its efforts. Cities like Milan that spend their millions in public works should understand that it is for their highest interest, even materially, not to neglect this great work of moral salvage. There should be popular lectures on these subjects, that the people may understand the problems with which we have to deal. There should be gymnasiums, for gymnasiums have a particular attraction for youth, and athletic exercise is a noble and at the same time useful exercise. It strengthens the body and the mind and turns the young from vice and makes them generous and kind.

Police officers ought to have a course of instruction as to how to deal with juveniles, how to prevent their crimes and to submit to paternal authority. There should also be special inspectors, selected with care, to exercise supervision over moving pictures and theatres and to keep children from the court-room. Over and above all this there should be voluntary aid in prisons to assist in the organization of schools and industries.

There should be better schoolmasters, who have a higher ideal of their useful mission. The influence of some teachers that I know is worse than for the children to have grown up without schooling.

Finally, religion is the great educative power. It should be held in honor and respected, for the words of the great Seneca are eternally true: *"bonus vero vir sine Deo nemo est."*

IDLENESS AND MENDICITY IN CHILDREN.

BY PAUL NEANDER, MOSCOW, ST. PETERSBURG.

The two things that give rise to the frightful increase of juvenile crime are idleness and vagabondage. The remedies are work and shelter, in an institution or family. A preventive measure would be obligatory primary instruction for every child above the age of seven. This schooling is compulsory in most countries, and the Douma is about to vote to have it in Russia, and when that is done we shall have the most efficacious means of protection from mendicity and vagabondage in children. That such regulation should not be a dead letter there must be a sufficient number of schools under the strict control of the government. There should be agents to visit the homes and see that the children go to school. In Germany such agents visit poor families and make sure that the children go to school instead of run the streets, and they visit rich families to be sure that the children are receiving instruction.

But that is not all—far from it. When the father alone works the mother can take care of the children. That is one of the objects of labor legislation, to make it possible for the mother to remain at home, but even then the mother of a large family cannot watch over all the children old enough to go out in the street or to school. Private charity has provided many shelters, day-nurseries, kindergartens, day schools, in the large industrial centres, which show the interest in this subject. But there should be many more such refuges. Where great establishments do not provide them voluntarily the state should compel them to do so. We have examples in what may be done by what the houses of Morozoff and Prokhoroff have done, in establishing day nurseries, schools, hospitals, homes for old men, etc., all in conformity with the latest views of health. But there are hundreds of factories and whole mining districts where the families of workmen are abandoned to themselves. The state must come to their aid to save the children and youth. There should be refuges where children can be taken by day or by night. In that way the time might come,—far away now,—which every civilized city should reach, when there should not be a child left to beg in the streets by day and to sleep under its bridges by night.

It seems needless to say that these asylums should furnish food for the children, simple, frugal, but healthful and sufficient. Where you have hungry children you will have crime to punish.

There must be work, different trades, agricultural colonies, vacation colonies. There must be recreations and good times, for a bad child is half saved if he can learn to laugh joyously.

The state cannot do all this work alone. The public must aid. In England there is a union of child-helping societies, a sort of protectorate of childhood. The members come from all classes of society and they represent many vocations, but all are united in a profound feeling of human solidarity and of personal responsibility for the children who are to be the men of the future. Such a protectorate should have a legal right over the children in its care. In Russia the ukase of 1866 in a regulation for a "council of protection" gave a legal right to the members of it for placing children and minors in shops and other establishments above the rights of the parents. The co-operation of the state and of society in this work would save a great many children from vice and crime.

ILLEGITIMATE CHILDREN.

BY DR. ARTHUR CHARLES SZILAGYI, BUDAPEST.

The illegitimate child is inferior to the legitimate in more than one sense. As the mother must fight for its life as well as her own, usually under unfavorable circumstances, the child is not physically up to the standard. This means that it is less able to resist disease; consequently the mortality among such children is greater. When grown it is restricted in the choice of a career, is not so well-fitted for military service, and, from the social point of view, is in danger of becoming a criminal. On the other hand, as women can now earn their own living in so many ways, there is a decrease in the number of marriages and an increase in the number of illegitimate children. Ths means a loss to the state, and this question, therefore, is of interest to the whole civilized world, how to equalize the difference between these children.

After giving certain facts about the Hungarian code and statistics showing the increase of illegitimate births in Hungary, the writer condenses his paper as follows:

The proportion of illegitimate children born in cities is larger than elsewhere. The number depends less on the degree of morality of a people than on the matrimonial regime.

Almost half of the natural births that are legitimized are made legal before the age of two. After the age of 14 it is very rare.

Half of the women who marry after having had an illegitimate child marry some other man than the father of the child.

The number of births as a whole decreases; that of illegitimate children increases.

In civilized countries the number of marriages is decreasing and divorces increase more rapidly than the population. In the great number of these cases it is the woman who applies for the divorce.

The mortality among illegitimate children is greater than among legitimate children. There are more stillborn infants born out of wedlock than in marriage. In villages and small communities the circumstances are worse for illegitimate children. In the cities conditions are better, but even there children born out of wedlock run greater dangers than the offspring of legitimate marriage.

A third of the mothers of illegitimate children are in domestic service, a fourth are laborers, and a fourth have some industrial profession.

In Hungary the mothers of illegitimate children are younger than legitimate mothers.

Among the measures to meet this condition of things are three:

I. To safeguard the rights and interests of children born out of wedlock there must be legislative measures: 1. The legal condition of children born out of wedlock should be regulated so as to eliminate completely the difference which now exists between children born in marriage and out of marriage, with reference to the mother and the maternal branch and to reduce to the minimum all that pertains to the natural father and his relatives. 2. The obligation of support imposed on the natural father should be considered as having its origin in the ties of blood, etc. 3. The legal condition of a natural child which has been acknowledged by the natural father should conform to the legal condition of the legitimate child. 4. Every child materially or morally abandoned should have the right to have the state act *in loco parentis* and such a child should be supported and educated up to the age of eighteen if necessary. 5. These measurs are to be also a protection to the mother. Three weeks before the birth of the child and three weeks after, the woman should not work and the contract for her labor should make that arrangement, her pay not to cease. The period may be prolonged, if necessary, when the employer need not be expected to pay for that extra time. While waiting for legislative action private and religious societies should look after maternal cases more carefully.

II. The procedure should be simplified so that the natural father may more easily acknowledge his natural child, or adopt him.

III. Legislative and administrative measures ought to result in more intense social propaganda. Leagues for the protection of childhood and maternity should extend their action in this direction. Another reform should be that the nursing child should nurse the mother instead of being fed artificially. To make this possible aid must be given to the mother in different ways, by gratuitous medical advice, by confinement in a free maternity hospital, etc.

THE INDETERMINATE SENTENCE.

By the Editor.

The best work of recent date on this theme is from the pen of that facile and eloquent writer, Elbert Hubbard. It is so much better than anything I have seen or written that I give it here as an appropriate selection as it appeared in the New York American.

THE EX-CONVICT.

By Elbert Hubbard.

In Jeffersonville, Ind., there is located a "reformatory" which some years ago was known as a penitentiary. The word "prison" has a depressing effect, and "penitentiary" throws a dark shadow, and so the words will have to go.

As our ideas of the criminal change, we change our vocabulary.

The "indeterminate sentence" is one of the wisest expedients ever brought to bear in penology. And it is to this generation alone that the honor of first using it must be given. The offender is sentenced for, say from one to eight years. This means that if the prisoner behaves himself, obeys the rules, showing a desire to be useful, he will be paroled and given his freedom at the end of one year.

"How long are you in for?" I asked a convict of Jeffersonville, who was caring for the lawn in front of the walls.

"Me? Oh, I'm in for two years, with the privilege of fourteen," was the man's answer, given with a grin.

The indeterminate sentence throws upon the man himself the responsibility for his length of confinement and tends to relieve prison life of its horror by holding out hope.

The old-time prejudice of business men against the man who had "done time" was chiefly on account of his incompetence, and not his record. The prison methods that turned out a hateful, depressed and frightened man, who had been suppressed by the silent system and deformed by the lock-step, calloused by brutal treatment and the constant thought held over him that he was a criminal, was a bad thing for the prisoner, for the keeper and for society.

Even an upright man would be undone by such treatment, and in a year be transformed into a sly, secretive and morally sick person.

The men just out of prison were unable to do anything—they needed constant supervision and attention, and so, of course, we did not care to hire them.

The "ex" now, coming from most prisons, is a totally different man from the "ex" just out of his striped suit in the seventies. However, we have a deal to do yet.

When men are sent to reform schools now the endeavor and the hope is to give back to society a better man than we took.

Judge Lindsey sends boys to the reform school without officer or guard. The boys go of their own accord, carrying their own commitment papers. They pound on the gate demanding admittance in the name of the law.

The boy believes Judge Lindsey is his friend, and that the reason he is sent to the reform school is that he may reap a betterment which his full freedom cannot possibly offer.

Now, here is a proposition: If a boy or a man takes his commitment papers, goes to prison alone or unattended, is it necessary that

he should be there locked up, enclosed in a corral and be looked after by guards armed with death-dealing implements?

At the reform school it may be necessary to have a guardhouse for some years to come, but the high wall must go, just as we have sent the lock-step and the silent system and the striped suit of disgrace into the rag-bag of time—lost in the memory of things that were.

Four men out of five in the reformatory at Jeffersonville need no coercion; they would not run away if the walls were razed and the doors were left unlocked. One young man I saw there refused the offered parole—he wanted to stay until he learned his trade. He was not the only one with a like mental attitude.

The quality of the men in the average prison is about normal.

As society changes, so changes the so-called criminal. In any event, I know this, that Max Nordau did not make out his case.

There is no criminal class.

Or, for that matter, we are all criminals.

Booker T. Washington says that when the negro has anything that we want or can perform a task that we want done we waive the color line, and the race problem then ceases to be a problem.

So it is with the ex-convict question. When the ex-convict is able to show that he is useful to the world, the world will cease to shun him. When we graduate a man from prison it should be good evidence that the man is able and willing to render a useful service to society.

The only places where the ex-convicts get the icy mitt are pink teas and prayer meetings.

My heart goes out in sympathy to the man who gives a poor devil a chance. I myself am a poor devil.

On the subject of the Indeterminate Sentence—I take pleasure in submitting of the work of the American Prison Association, sent to me by that body.

THE INDETERMINATE SENTENCE.

By J. V. Roos, Director of Transvaal Prisons, Pretoria.

The number of criminals in the Transvaal is increasing with alarming rapidity. Those of European origin are largely the flotsam of the Boer war or foreigners drawn to the gold fields. Many of them were criminals in their own land, and they lead the colored people of the Transvaal into criminal ways. Very few of those who commit serious crimes belong in the Transvaal.

The government has been trying to meet this rising tide of crime, and for that purpose had studied the methods adopted in other countries, especially the laws of Great Britain and the United States. But in all these laws there is the objection that they have not carried to its logical consequence the principle of the indeterminate sentence, but have clung to minimum and maximum limits. The Australian colonies are the only countries which do not have this reproach to bear. New South Wales in particular has applied with great success the very practical system of Mr. F. Neitenstein, controller-general of prisons, who has recently retired after a long and honorable career.

As a result of this study the government of the Transvaal resolved to adopt as a model the enactment of New South Wales and it has inserted in the law of 1909 (No. 38) the principle of the indeterminate sentence, without minimum or maximum limit, for all criminals who have committed, in any country and at any time, three or more grave crimes. The crimes included are brigandage, arson, fraud, counterfeiting, theft, concealing stolen goods, extortion, rape, immoraltiy, etc. (The law is given in full, but is omitted here as the main points have been stated.) The convict may be liberated on probation. Each institution is to have

a board of visitors to whom the director will annually present a written report of each prisoner. The law provides for probation and for a comsion of surveillance, composed of the director of the house of detention, who acts as president, two citizens of good repute, the inspector of prisons and the consulting physicians of the principal penal establishment. The chief judge of the Transvaal has an equal consulting voice in the commission and all the papers are submitted to him. No one whose duty it is to have active quardianship of the convict is allowed to sit on the commission. Upon the favorable report of the commission the governor can release the inveterate criminal on probation. These measures to protect the individual rights of the convict are considered sufficient in the Transvaal.

THE INDETERMINATE SENTENCE.

By Gustino de Sanctis, Inspector-General of Prisons, Italy.

This subject interests me deeply, because I believe that for certain classes of criminals it is a means of correction of great importance. The old classic school desired that punishment should be both reformative and protective of society, but the means to that end cannot be the same today that they were yesterday. The only real social defense is to bring these criminals back to the normal way of living by training them in institutions suitable for that purpose under government control, where the principles of a wise pedagogy can be applied.

But penalties as usually pronounced rarely accomplish this end. Reformation of prisoners subjected to the ordinary penal sentence is exceptional. Let us have the courage to confess this sad truth. The increase of habitual criminality has been distressing us for a long time, for it is noticeable in all countries. In Italy the increase is alarming, as seen by statistics. We maintain, without fear of contradiction, that its is because the remedies for crime are inefficacious. We must apply others at once. The time for half measures, or palliative measures, has gone by. Too long we have wasted time in sterile discussions, hesitating to seize our Ariadne thread and in the meantime the evil forces have waxed strong and threatening.

Penal legislation, then, having proved inefficacious as at present enforced, the question arises of some other method, and the indeterminate sentence is proposed as the best way of meeting these difficulties.

The indeterminate sentence may be applied to advantage in certain cases. Apart from persons found guilty of premeditated, serious crimes, who have been sentenced to long terms; and those who have become delinquent by lack of intelligence, imbecility, insanity, etc., there are still criminals of occasion and some habitual criminals who should be submitted to the educative, but severe, discipline of the indeterminate sentence.

The sentence, however, ought not to lose its character of penalty; therefore there should be a minimum limit, according to the cirmustances preceding and accompanying the crime. After the expiration of that minimum the convict should be held till he shows himself fitted to be restored to society.

But there should also be a maximum fixed beyond which the indeterminate sentence should not go, for reasons of justice and equity. Release, however, should be decided by a commission. No convict at Elmira can be held beyond the expiration of the maximum limit of his sentence. I conclude, then, as follows:

1. The indeterminate sentence may be applied to occasional and habitual delinquents, but not to those guilty of premeditated grave crimes.

2. There should be a minimum and a maximum limit; the sentence to be pronounced only after a careful juridic and psycho-physiologic study

of the crime and the criminal. The imprisoned should be held in institutions suitable for the purpose and under officers trained to carry on the work of education and reformation in a rational manner.

The time of detention should be divided into four periods, in which the convict may gradually become used to liberty.

There should be a commission to determine matters of discipline and the transition from one period to another.

There should be proper oversight of those who are liberated and care should be exercised with reference to those who are to be released by expiration of sentence who have not given evidence of amendment.

I believe that there should be farther restriction of the liberty of those who have not amended, especially if the persons is a recidivist, or has no means of subsistence, and no trade. Regard must also be had to the age of the person, the young being more susceptible to reformation. This final measure should be pronounced by a court acting after an enquiry by the commission already mentioned. Such convicts, held for further treatment, should be kept in institutions of an educational character, rather than in a prison, and organized in a special way.

But, I ask myself, do not these expedients have the character of an indeterminate sentence? If so, why not adopt the indeterminate sentence? That would be the best solution of the question and would meet the exigencies of society. Let us then demand it at once.

THE INDETERMINATE SENTENCE.

By Ernest Friedman, LL. D., Secretary-General of the Hungarian Group in the Society for International Penal Law.

Criminality has changed greatly in Europe. It is distinguished at present by two characteristics. The great industrial development has brought crowds to the cities, among whom are many who live from crime. Another trait of the criminal life is that it draws its recruits from neuropathics. The conflict for existence uses up brain and nerve force much faster than was true in olden times, and thin results in producing persons who become criminals. Neuropthics, epileptics and alcoholic persons form a large group of criminals. As to the criminal acts committed in passion they are legion. If we ask how these different forms are met in the way of penalties for crime we must confess that they are far from being met.

Formerly the mode ant amount of punishment were decided without the least thought of the individual nor of the social danger that he represented. The modern tendency is to look at the result of the penalty only from the point of view of social imperfection. It seems to forget that the penalty is only the reaction ofthe action provoked by the crime.

At first the adherents of the modern tendency formulated their requirements in such a way that it was impossible to punish individuals upon whom punishment had had no effect nor led to the hope that by it they would be deterred from further crime. However, as such persons were a social peril, they declared that they should be imprisoned as long as they were a danger to society. But as a result of much discussion these views have been modified.

What is the fundamental idea of the indeterminate sentence? Simply a recognition of the fact that it is impossible in advance to say how long a time it will take for a prisoner to be reformed. Now, it is harmful and unwise to keep a man in prison who is no longer a source of danger to society, but on the other hand it is unjustifiable to turn loose upon society one who is not fit for life outside the prison. The careful study of the convict during his incarceration can alone show how much time it will require to temper the small amount of will that he possesses. This fundamental idea means that there should be no more penalty than is really

necessary. This is the theory. But if you search through the three continents how it is obliterated! It is not possible to go so far in practice.

In practice there are the most radical differences. In the European continent and in New South Wales they apply the indeterminate sentence to individuals of whom there is little hope of reform. They are isolated rather for the protection of society. On the contrary, in Ameirca the indeterminate sentence is applied only in cases where there *is* hope of reformation. On the continent they apply it to habitual recidivists; in America only to those who have never before received any severe sentence. In Europe it is used for youthful criminals; in America only for adults. In America it is not applied for the gravest crimes, like murder.

There is another distinction to be made: Is the sentence to be completely indeterminate, or is there any limit? If there is to be a maximum and a minimum limit, how are they to be determined, by the law itself, or by the judge?

The partisans for the indeterminate sentence maintain that it is easy to raise theoretical objections to it, but that when seen in practice it is much more difficult to find fault with it. I object to it as practiced. In theory one may agree that the possibility of reformation would justify its application, but as we have seen, on the continent it is used for persons of whom there is no hope of betterment, while in America it is employed for those who give promise of amendment. One seeks in vain for a uniform principle.

Youth is the time when reforms can be effected and in dealing with the young penalty may give place to other measures of reform. It is a tremendous work to save the young from crime and in its bearings it perhaps surpasses all other duties. And there is this advantage that in reform work of this kind one does not run counter to the basic ideas of penal law. In this field America has had great success.

It is not without pride that I point to the fact that Hungary has recently adopted laws of great import in this direction. Since the first of January, 1910, thy have applied in my country an entirely different regime for youthful offenders from the old penal law. The reform owes much to Dr. Eugene Balogh, professor in the University of Budapest, who was not only the author of the law, but the soul of this important social reform. After a careful examination of the culprit the judge may employe one of many expedients. He may reprimand him, he may put him on probation under surveillance, he may give him a domestic education, he may imprison him for an indefinite time, and in the gravest cases may send him to prison for ten years.

Two other forms of the indeterminate sentence may be mentioned, the isolation of those who are a peril to society, and conditional liberation.

To sum up what I believe:

1. The principle of the fixed sentence should be preserved.
2. The absence of the indeterminate idea is compensated by other measures.
3. The supplementary measures are corrective education to be applied for an indeterminate period to juvenile delinquents; indeterminate detention for the sake of safety for those who are a constant public danger, and conditional liberation.

In any case it is evident that times have changed and measures must also change. It is not enough to say that the old laws are sufficient. If the life has changed we must adopt new measures to regulate it. But these changes need not be so revolutionary as to overthrow the existing foundations.

THE INDETERMINATE SENTENCE.

By Dr. Rusztem Vambery, Budapest.

After discussing the relation of the indeterminate sentence to the common idea of penalty as a means of punishment the writer asks: Is there not, then, among the things prescribed by the classical penal law more than one method of dealing with criminals which excludes the idea of chastisement—as for example, pardon, suspended sentence, conditional release? The real aim of the penalty should be the protection of society, and to attain that there is needed beyond punishment methods of education and protection as well as of repression. The justice of the indeterminate sentence and its compatibility with the fundamental principles of modern penal law depend on these two things, the protection of society and the minimum limitation of individual liberty. There is no need of arguing at length that the necessity of protecting society springs not from the crime committed, but from the character of the criminal. Still, one encounters great difficulty in deciding exactly to what classes of criminals the indeterminate sentence should be applied. The original plan of Mr. Brockway, first presented in Cincinnati, in 1870, and afterwards embodied in law in New York, in 1877, as in seventeen other institutions—applies to adolescents; while in Australia, South Africa and New Zealand, it applies to recidivists, as do the English and Norwegian laws. This difference does not altar the essence of the measure. Neither of these two groups of laws can serve as a base of departure. Both sin through the same fault. They seek to classify criminals according to distinctions furnished by the penal codes still in force. These, however, do not distinguish between men, but between the actions of men, which are characterizel by different degrees of gravity, considered ethically.

It must not be forgotten that the indeterminate sentence is only a form of procedure, which makes possible the educative idea. The value of it is closely bound up with the reformatory system of which it is the corollary and with which it lives or dies. . It is indisputable that when the individual is concerned the indeterminate is the educative sentence par excellence. He who looks seriously at the end of the penalty and who recognizes the incompatibility of vengeance and reformation, will not hesitate to say that the indeterminate is the only acceptable reformatory sentence. To suppose that a person dangerous to society can be transformed into a useful citizen by sentencing him to a definite term of imprisonment is as absurd as when the soldier who took leave of his life cried, "Adieu, I am off for the thirty-years war." It is hard to understand how any one who recognizes reformation as the the object of the penalty should not hold to the indeterminate sentence. It is clear that if the training of the minor needs an indterminate time, it is even more true of the adult, whose way of thinking, feelings, and inclinations, are more strongly fixed. It goes without saying that the training and discipline would be different for men above thirty from what they would be for juvenile delinquents of fifteen, but the indeterminate character of the sentence is equally indispensable in both cases.

Certain groups of criminals may be excluded from the indeterminate sentence: political, accidental, and those who have committed a crime in passion, but who ordinarily are not a source of danger to the public. Those who are incapable of profiting by the educative side of the treatment, but are a source of danger, may be held for the sake of society, with a guaranty that such incorrigibles should not be held longer than the interests of society demand.

I must confess that in some of my writing ten years ago I was opposed

to the indeterminate sentence, and if the works of Barrows, Herr, Hartman, Baernreither and Freudenthal, as well as the instructive facts gathered from the practice in America, have convinced me of the error of my former opinion, I comfort myself by thinking that one of the most illustrious representatives of our science, Mr. Adolphe Prins, is guilty of the same inconsistency. At the same time I have not lost all my skepticism. I still doubt the possibility of securing individual liberty by a purely institutional guaranty. If the maximum limit be adopted, that scruple would at once vanish. I see no objection to a maximum of ten years.

Another objection, that the duration of confinement would be left to the arbitrary authority of the administrative authorities, is met by establishing the method of authorizing the court to decide upon the time of release, or a body constituted to make such decisions, as suggested by V. Liszt and Dr. Freudenthal. But the true guaranty of individual liberty always resides in the moral and intellectual qualities of the officers charged with carrying out the indeterminate sentence. There is no reason why a prison officer should not exercise the function of judging whether a man is to be trusted to meet the requirements of the indeterminate sentence.

The battle of the pen that is kept up, especially in Germany, against the indeterminate sentence seems to be on account of a lack of confidence in reformatory methods. To cite only one example: Mr. Schoetensack is out of patience because the prisoners in a reformatory have good food, that they quench their thirst at the inexhaustible fountain of Victor Hugo instead of drinking from the everlasting little religious tracts and stories with morals; that the convicts should be treated with gentleness and politeness. In short, it does not seem to occur to him that they should be treated other than in a Prussian prison. He is nettled that the classes in ethics at Elmira should have discussions which might awaken in their souls the spirit of opposition, even—God forgive me!—to conceptions of social order! In giving wing to his imagination he seems to forget that the reformatory aspires not only to discipline men, but to fit them to fight with honor the battle of life. All the same the American conception, which meets the exigencies of practical life, overcomes theoretic scruples, and I am convinced that the time will come when the reformatory idea will sweep away the last vestiges of the revengeful side of penal sentences.

(To be continued.)

EDITORIAL.

The feature of most importance to the Medico-Legal Society is the publishing by the Medico-Legal Journay of the Bulletin of the Medico-Legal Society, which is copyrighted, as a quarterly serial, commencing with July, 1910, No. I. appearing under the editorship of Clark Bell, Esq., at $1.00 a volume, payable in advance, and postage, which has been fixed at 10 cents, or $1.10, which can be sent to the Treasurer of the Medico-Legal Journal, and it will be forwarded to subscribers. This will enable students of Medical Jurisprudence to keep in close touch with the Medico-Legal Society and its work at a nominal cost.

The exchanges of the Medico-Legal Society can, if they apply, exchange with the Bulletin on application.

It will be the aim of the publishers to exchange with the Bulletin of all the Societies who publish Bulletins.

These exchanges are desired and solicited without further notice.

Bell's Medico-Legal Studies.—Eight volumes of this work have been published in the past. Although more have been written and are ready, circumstances have prevented their publication.

Volume IX. of this publication is announced now in serial form as a quarterly for each year. Number I. of this book for July, 1910, is published and ready for delivery. Its price is $2.00 per volume, and it will be the aim of the author to publish matter relating to the science of Medical Jurisprudence as fast as his time and circumstances will permit, and to embrace in the work such matter as has appeared since the publication of Volume VIII.

It will embrace the work of the author, and such selections as he feels would interest his readers. It is copyrighted and will be illustrated with portraits; and, as it will be a quarterly, will be a serial volume and will exchange with such authors, writers and publications as wish to do so. The Medico-Legal Journal will publish these two works and all communications regarding them should be addressed to the publisher at 39 Broadway, New York City, and remittances for those who desire to subscribe.

CAUSES OF DEATH, ACCIDENTAL DEATH, AND SUICIDE.

The Census shows as to mortality that, the death rate in the death registration cities and states of the United States dropped to 15 per thousand and of provisionally estimated population last year, according to the forthcoming United States Census Bureau's bulletin on mortality statistics for 1909, which has been submitted to Director Durand by Dr. Cressy L. Wilbur, chief statistician for vital statistics.

1908 the death rate in the Census Bureau's registration area was 15.4 per thousand and in the bureau's annual report for that year, issued last spring, it was stated that it is evident an era of low mortality has begun.

The death rate for 1909, the bulletin states, is lower than that for any previous year of registration and probably is the lowest that ever occurred in the history of the United States.

It is stated that the mortality was distributed with more than ordinary uniformity throughout the year 1909 and no epidemics of other than a very local extent were found to have occurred.

The total number of deatss returned from the registration area for 1909 was 732,538, an increase of 40,964 over the number, 601,574, returned for 1908.

Of the total number in 1909, there were 398,507 deaths, or 54.4 per cent. among males, as compared with 54.3 in 1908.

The previously estimated aggregate population of the registration area of the United States in 1909 is 48,776,893, or 55.3 per cent. of the total estimated population of continental United States.

The official death registration area is composed of those states and cities which require the registration of a death before the issuance of a burial permit, and which have complied with other requirements imposed by the Census Bureau as conditions precedent to inclusion in this area whose death returns are annually collected, tabulated, analyzed, and presented in bulletin and report form by the Census Bureau. In 1909 the death registration area included the following states:

California, Colorado, Connecticut, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington, and Wisconsin.

External causes, other than suicide, were responsible for the census registration area for 1909, as it is stated in the Census Bureau's annual bulletin on mortality statistics for 1909, now in press. The death rate declined from 97.9 to 96.7 per 100,000 estimated population.

The total number of deaths from homicide, as reported for 1909, was 2,854, a decrease of 149 from the number compiled for 1908. Not all deaths from homicide are specified, so that the total number that actually occurred would be in excess of that compiled. The increase in the death rate, 5.9, from this cause for 1909 over the annual average rate, 2.9, for the five-year period, 1901-1905, is probably due largely to greater precision in the returns in this respect.

Among the causes of accidental deaths, in the order of numerical importance for the year 1909, were the following: Railroad accidents and injuries, 6,659; drowning, 4,558; burns and scalds, 3,992; injuries at birth, hereafter to be classified under diseases of early infancy, 3,508; injuries by horses and vehicles, 2,152, not including injuries by street cars, 1,723, and automobile accidents and injuries, 632; injuries in mines and quarries, 1,997; inhalation of poisonous gases, including conflagration, 1,837; other accidental poisoning, 1,779; accidental gunshot wounds, 944; heat and sunstroke, 816; cold and freezing, 251; lightning, 150.

There were 1,174 fatal injuries by machinery, chiefly in factories, but the large number, 10,108, of accidental traumatisms of unspecified nature makes it necessary to consider many of the figures given above asonly minimal, and it is important that the means of injury be specified in all returns of death from accidental violence.

The slight numerical increase in the deaths, 8,402, from suicide registered for 1909 over the number, 8,332, for 1908 is less than the relative increase of the estimated populationof the registration area, so that the death rate decreased from 18.5 to 17.2 per 100,000 population. The most common means of suicide for the year was poison, 2,464, followed by firearms, 2,395; hanging, 1,215; asphyxia, chiefly by illuminating gas, 989; cutting instruments, 536; drowning, 507; jumping from high places, 156; crushing, 84; and other or unspecified means, 58. Undoubtedly many deaths from suicide fail to be reported so that they can be compiled under this head, but the increasing precision of statement of the nature of the death in cases of deaths from violent causes renders the statistics more accurate from year to year, and thus accounts for some of the apparent increase in the death rate from suicide.

NEW YORK STATE HISTORICAL ASSOCIATION.

The New York State Historical Association was incorporated in 1899, and at present has over six hundred members. Its aim is to be a live historical association for the whole State, and toward this end its annual meetings are held in different sections, for example, Lake George, Buffalo, Albany, Mount Vernon, and the last meeting, which was the most successful one ever held by the Association, was in the form of a house-boat party on the Lake Champlain Steamer "Vermont." There were about 130 in attendance, and as the weather proveproved to be good and all the conditions ideal, the result was a delightful three days' outing in one of the most beautiful and historic sections of the United States. No definite plans have been made as yet for the next meeting, but there is a prospect that we may charter a steamboat on the Hudson River, and, making headquarters at Kingston, visit Newburgh, West Point, and other historic points along the river.

The objects of the Association are, "To promote and encourage original historical research," "To dissemminate a greater knowledge of the early ristory of the State, by means of lectures and the publication and distribution of literature and hisorical subjects," "To gather books, manuscripts, pictures, and relics relating to the early history of the State and to establish a museum therein for their preservation," "To suitably mark places of historic interest," "To acquire by purchase, gift, devise, or otherwise, the title to, or custody and control of, historic spots and places."

IMITATIVE SUICIDE.*

By the Editor.

The London Lancet contributes an interesting chapter on the power of suggestion in its effect on the human oeing in relation to suicide, full of profound interest to the student of suicide. Considered from its psychalogical side which we are glad to use. Clipped from that appreciative admirer of good literary work, the Editor of the New York Sun. It is worthy of careful study.

"The subject of initiative suicide has recently attracted attention in the public press. The mental condition of an individual who commits suicide is difficult to fathom. In one class of case a person will fancy that he is being constantly persecuted, that he is being watched, or that he is financially ruined—all these ideas being contrary to fact: he destroys himself to escape these imaginary evils.

Such a man is obviously of unsound mind. In another class of case a man has committed a crime or disgraced himself in some way, and in order to free himself from the consequences of his act he takes his own life in preference to facing exposure or the punishment entailed. Such an idividual is not necessarily insane.

But there is yet another class—people who are subject to attacks of depression and who are apt to brood over real or imagined injuries. These are weak minded, or may be on the border line between sanity and insanity.

Or another class likely to act upon some scdden impulse are the alcoholics. In these a passing suggestion is likely to result in some deed of violence often of a suicidal nature. Such impulses are susceptible of being spread by imitation. Reading in the newspaper of a mode of self-destruction which is likely to excite great notoriety has been known to induce a similar act in the reader: a suicide by coal gas, especially when a description has been given of the exact manner in which the deed was carried out, has found imitators.

More particularly, however, the sight of a particular spot or locality

where previous suicides have taken place may induce a person, who may hitherto have been unsuspected of any such disposition, to destroy himself. Falls from heights especially come under this heading. Numerous suicides have taken place from the Suspension Bridge at Clifton. A writer in the Yorkshire Evening News has recently said that much harm is done by pictures and descriptions, and that imitative suicide may follow. We agree with him that the necessary suggestion may be evolved by such means. The suggestion may act on the conscious mind of the subconscious."

Dr. Frederic Clift of the State Mental Hospital, Provo, Utah, an active member of the Medico-Legal Society since 1892, has resigned his official position as physician, after upwards of five years' service in the State institution. Dr. Clift will in future make a specialty of nervous and mental diseases, and has made arrangements with Dr. John E. Morton of the Kaysville Hospital, whereby the scope of that institution will be enlarged to include sanitarium and hospital facilities for nervous and selected mental cases. The institution is within a short distance of the interurban electric cars, and midway between the cities of Ogden and Salt Lake—where Drs. Clift and Morton will have their offices.

Dr. Clift has taken an active part in advancing the interests of the medical profession in Utah. He was president of the State Association in 1906-7, and is at present chairman of the State Medical Council, president of the Third Councilor District Society, and secretary-treasurer of his County Society. He has also been associated with the editorship of the Utah Medical Journal, and will carry with him to his new field of labor the good wishes of his professional brethren.

He will take a seat on the editorial staff of this Journal from the Pacific coast and will act as a vice-president of the Psychological section.

The London Times tells an excellent story of the late Lord Chancellor of England, one of those who were elected honorary members of the Medico-Legal Society of New York at the same session when Hon. Joseph Choate and the Attorney-General of England, when Mr. Balfour was at the head of the Ministry:

One of the foremost lawyers in England is Lord Halsbury, who was Lord Chancellor in the Balfour Ministry. A friend tells this story of his career at the bar:

He was once arguing a case on behalf of a Welshman, and showed great knowledge of the principality and its people.

"Come, come," said the judge at last, "you know you cannot make yourself out to be a Welshman."

"Perhaps not," replied the barrister, "but I have made a great deal of money out of Welshmen in my time."

"Well, then," replied the judge, "suppose we call you a Welshman by extraction."—(London Times.)

(SUPREME COURT NOTES.)

The delay in our September issue enables us to anticipate the action of the political parties in continuing on the Bench of the Court of Appeals Judge Irving G. Vann to succeed himself in that court until the end of 1912, when he will reach the constitutional limitation.

This action is one of the most gratifying incidents of the campaign. It continues the policy passed by the higher influences in our political life, and that lifts our highest Judicial Tribunal of the Empire State above the control of partizan politicians.

Judge Vann was born in the town of Ulysses, Tompkins County, January 8, 1842. His unanimous re-election means that the people will have the benefit of his services for two full years more. In 1881 he was

elected a justice of the Supreme Court; in 1895 he was re-elected receiving the nomination from both political parties. In 1895 he was appointed to the Court of Appeals to succeed Judge Peckham, promoted to the Supreme Court of the United States; in 1896 he was elected to the Court of Appeals on the Republican ticket. He is one of the ablest members of that court, and stands at the head of the senior Judges of the State respected alike by the Bar and the people; and this action of the Democratic party in endorsing Judge Vann, also indicates similar action by the Republican Convention in its selection as a candidate to succeed the late Judge Bartlett, Hon. Frederick Collins of the Bar of Chemung County,

Like his predecessor, who was elected without prpevious Judicial experience, Mr. Frederick Collins will take this high judicial honor as the joint nominee of both parties. Mr. Collins is a Bar leader in the County of Chemung. He is a native of the county of Yates, was born at Benton, N. Y., August 2, 1850, and was admitted to the Bar in 1876, and is one of the Vice-Presidents of the New York State Bar Association. He was Corporation Counsel of the City of Elmira in 1891-1892. He served as Mayor of Elmira in 1894 to 1898, and served as President of the Board of Education of that city from 1882 to 1894.

The high character and standing of the New York Court of Appeals will be maintained by the selection of Mr. Collins.

THE PRISON CONGRESS.

There were more than one hundred foreign members of the International Prison Congress in New York on their way to the Prison Congress in September.

The delegates officially represented their governments. The Congress meets once in five years, this year for the first time in the United States.

The International Prison Congress meeting was held at Washington from October 2 to 8. There were four sections: (a) Penal Law; (b) Administration of Prisons; (c) Preventive Agencies; (d) Juvenile Delinquency. More than one thousand persons attended the Congress.

There was a 2,000-mile railroad tour of inspection by special train of typical prisons and reformatories in the Eastern and central portions of the United States from September 18 to 20. The train was furnished by the United States Government. The Congress was held at the invitation of the United States Government. It was in all ways a great Congress. We shall reproduce from the work in this and in future numbers of this journal.

RECENT LEGAL DECISIONS.

BURDEN OF PROOF IN NEGLIGENCE CASES.

It is on the employer's part to prove lack of negligence.

Johnson vs. L. & N. R. Co., Sup. Ct. Florida, April 12, 1910, and is on the Railroad Co.? to prove contributory negligence.

Palmer vs. Portland Ry. L. & P. Co., Supt. Court Oregon, Pac. Rep., 211.

Upon Master to prove assumed risk and contributory negligence upon part of servant.

Buchanan & Gilder vs. Beanhead, Tex. Ct. Appeals, 127 S. W. Rep., 1158.

Burden of proof is on plaintiff to prove negligence by direct or circumstantial evidence. Cal. Court of Appeals, 108 Pac. Rep. 895.

THE NEW INSANITY LAW.

We give the new law relating to the insane which went into effect September 1, 1910.

It became a law June 21, 1910, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight hundred and thirty-six of the code of criminal procedure is hereby amended to read as follows:

§836. Proceedings when person in confinement appears to be insane. If any person in confinement under indictment, or under a criminal charge, or for want of bail for good behavior, or for keeping the peace, or for appearing as a witness, or by order of any justice, or under any other than civil process, shall appear to be insane, a judge of a court of record of the city or county, or a justice of the supreme court of the judicial district in which the alleged insane person is confined, in all cases within the city of New York in which the maximum fine for the offense exceeds five hundred dollars or the term of imprisonment for the offense exceeds one year, shall institute a careful investigation, call two legally qualified examiners in lunacy, neither of whom shall be a physician connected with the institution in which such person so to be examined is confined, and other credible witnesses, invite the district attorney to aid in the examination, and, if he deem it necessary, call a jury, and for that purpose is fully empowered to compel the attendance of witnesses and jurors, and if it be satisfactorily proved that he is insane, said judge shall discharge him from imprisonment and instead shall commit him to a state institution for the care, cutody and treatment of the insane, where he shall remain until restored to his right mind. The superintendent of such institution shall then inform the said judge and district attorney so that the person so confined may be returned forthwith to the authority by which he was originally held in confinement; and the proceeding for which the person was in such confinement shall then be resumed. The fees of the medical examiners called as witnesses, and the other necessary expenses for such investigation, shall be audited and allowed at a reasonable sum by said judge, and upon the presentation of the order made by him such fees and expenses shall be paid by the county treasurer of the county wheen such person is confined, as a county charge. In case any person within the city of New York, in confinement under indictment or under a criminal charge, or for want of bail for good behavior, or for keeping the peace, or for appearing as a witness, or by order of any justice, or under any other than civil process, in which the maximum fine for the offense does not exceed five hundred dollars or the maximum term of imprisonment for the offense does not exceed one year, or in which no fine or term of imprisonment is provided, shall appear to be insane, the judge or magistrate of the court having jurisdiction over the proceedings in which such person is confined shall commit such apparently insane person, in the boroughs of Manhattan and the Bronx to the care and custody of the board of trustees of Bellevue and allied hospitals who shall keep such person in a safe and comfortable place until the question of his sanity be determined, and in the boroughs of Brooklyn, Queens and Richmond, to the care and custody of the commissioner of public charities, who shall keep such person in a safe and comfortable place, until the question of his sanity is determined. Whenever in the city of New York a person is committed as apparently insane as above

provided, it shall be the duty of the board of trustees of Bellevue and allied hospitals or the commissioners of public charities as the case may be, forthwith to take proper measures for the determination of the question of the insanity of such person. If the person shall be found to be sane by the authorities to whom he was committeed, the judge committing such person shall be notified, and such person shall be returned forthwith to the authority by which he was originally held in confinement; and the proceeding for which the person was in such confinement shall then be resumed. If such person be found to be insane, and no demand is made for a hearing in behalf of the alleged insane person, a judge of a court of record of the city or county or a justice of the supreme court of the judicial district in which the alleged insane person is confined, shall discharge from imprisonment and instead commit him to a state institution for the care, custody and treatment of the insane, where he shall remain until restored to his right mind. If a demand is made for a hearing in behalf of the alleged insane person such judge shall proceed in accordance with sections eighty-two and eighty-three of chapter twenty-seven of the consolidated laws. When an insane person, committed to a state institution in accordance with the provisions of this section, shall have been restored to his right mind, the superintendent of such institution shall inform the judge who committed the person of the fact of the recovery, and such person shall be returned forthwith to the authority by which he was originally held in confinement; and the proceeding for which the person was held in such confinement shall then be resumed.

§2. Section six hundred and fifty-eight of the code of criminal procedure is hereby amended to read as follows:

§658. Appointment of commission; their proceedings. When a defendant pleads insanity, as prescribed in section three hundred and thirty-six, the court in which the indictment is pending, instead of proceeding with the trial of the indictment, may appoint a commission of not more than three disinterested persons, to examine him and report to the court as to his sanity at the time of the commission of the crime. The commission must summarily proceed to make their examination. Before commencing they must take the oath prescribed in the code of civil procedure, to be taken by referees. They must be attended by the district attorney of the county, and may call and examine witnesses and compel their attendance. The counsel of the defendant may take part in the proceeding. When the commissioners have concluded their examination, they must forthwith report the fact to the court with their opinion thereon.

§3. This act shall take effect September first, ninteen hundred and ten.

State of New York, Office of the Secretary of State, ss:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

SAMUEL S. KOENIG,
Secretary of State.

TRANSACTIONS.

MEDICO-LEGAL SOCIETY.

NOVEMBER, 1910, MEETING.

The November, 1910, meeting of the Medico-Legal Society was held, pursuant to call, at the Waldorf Astoria, on November 30th, 1910.

In the absence of the President, Judge William H. Francis, Vice-President, took the chair.

The minutes of the last meeting were read and approved.

The following were recommended for membership in the Society by the Chairman of the Executive Committee, and a ballot being taken, they were declared duly elected active members thereof, viz.: Hon. Frank T. Lodge, Detroit, Mich.; Hon. Arthur V. Cannon, Cleveland, Ohio; S. J. Alkier, M. D., 6 Sumner Avenue, Brooklyn, N. Y.; Eugene Del Marr Esq., 115 Broadway, New York.

Mr. Clark Bell brought before the Society the case of Albert T. Patrick, condemned to death and now serving life imprisonment under a commutation. Mr. Bell read from the New York Herald of January 24th, 1910, an article purporting to be the views of Professor John H. Larkin and Dr. P. F. O'Hanlon, expressing the view that the testimony upon which Mr. Patrick has been convicted had been shown to be faulty and of no value. The article was as follows:

PROF. DR. JOHN H. LARKIN'S VIEW AS PUBLISHED IN THE NEW YORK HERALD OF JANUARY 24, 1910— READ BEFIRE THE MEDICO-LEGAL SOCIETY BY MR. CLARK BELL, NOV. 30, 1910.

NEW AUTOPSY AIDS ALBERT T. PATRICK.

DR. LARKIN SAYS VICTIM'S LUNGS DISPROVE THEORY ADVANCED IN CASE.

ATTACK OLD TESTIMONY.—DECLARES CHLOROFORM DOES NOT PRODUCE EFFECT SWORN TO BY THE SO-CALLED EXPERTS.

An attack on a theory that formed a great part of the basis for the conviction of Albert T. Patrick on the charge of murdering William Marsh Rice, in 1900, was made yesterday by Dr. John H. Larkin, adjunct professor of pathology in the Columbia College of Physicians and Surgeons, after an autopsy, held on the body of Giovanni Ferrari, a wine seller, who was found dead Saturday at No. 331 East 106th street. Ferrari was killed by chloroform and Dr. Larkin cites the condition of the victim's lungs to prove the medico-legal evidence offered on the effect of chloroform on the lungs at the Patrick trial was wrong and contrary to the facts revealed in the Ferrari autopsy.

In the testimony given at the Patrick trial it was declared that in cases of death by chloroform coextensive congestion of the lungs resulted. That this testimony is absolutely contrary to fact is proved, asserts Dr. Larkin, by the condition of Ferrari's lungs, in which large areas free from congestion were found.

The autopsy on Mr. Rice's body revealed a congestion extending throughout his lungs. This, according to the expert testimony in the case, indicated that Mr. Rice had died from chloroform and bore out the statement made by the valet Jones that this anæsthetic had been administered.

After the autopsy yesterday on the body of the wine seller by Dr. Larkin and Dr. P. F. O'Hanlon and Dr. Timothy Lehane, Coroner's physicians, they declared the testimony offered at the first Patrick trial had been proved to be faulty.

"I have always held that the testimony offered at that trial was the poorest kind of medico-legal evidence," declared Dr. Larkin. "It was

a disgrace to the medical profession and it was founded on a theory that doesn't hold water for a minute.

"That this is true is proved by the present case, in which death clearly resulted from chloroform. Here we found none of the co-extensive congestion which was found in the lungs of Mr. Rice. Parts of the lungs, and large parts, were normal.

"Mr. Rice's body had been embalmed, and embalming causes congestion. Congestion may result from other causes also, and it is impossible to determine definitely just what cause is responsible for many cases of congestion of the lungs.

"I have always held that the conviction on the testimony offered concerning this phase of the case was an outrage, and the best experts will deny that the evidence was correct."

Dr. Larkin explained that a cause for differences of opinion concerning the effects of the anæsthetic on the lungs might be found in the fact that few cases of chloroform deaths are the subject of post-mortem examinations. He declared, however, that men learned in their profession have long agreed that the testimony in the Patrick case was wrong.

Giuseppi di Benedetto, a shoemaker, who boarded with Ferrari, was committed to the House of Detention yesterday to be held as a material witness in the case. Agostino Done, thirty years old, who, according to Policeman John Archiopoli, of the Harlem Detective Bureau, who arrested him yesterday, has admitted that he had eaten with the wine seller before he was killed, was taken to Police Headquarters.

Mr. Bell then stated that there had come to his knowledge the fact of dismissal, on contested motions, of the indictments that had been obtained against Albert T. Patrick for the alleged forgery of the will of William Marsh Rice and against the two gentlemen who had acted as witnesses of the will and who had testified in court that the will was duly executed on the day of its date by the said Rice, whom they knew well personally, and that they had subscribed the same at his personal request and that he had declared it to be his last will and testament, and that they, in his presence and in the presence of each other, had duly subscribed the said will as subscribing witnesses, and that in their opinion the testator was of sound and disposing mind and memory. Mr. Bell also stated that none of the indictments had ever been brought to trial by the District Attorney, although strenuous efforts had been made by the accused parties to compel a trial and that District Attorney Whitman, who had recently come into office had decided not to oppose application for dismissal and that the indictments had all been dismissed.

Mr. Bell then read a paper—a certified copy of the order dismissing the several indictments and he also read the report of the Committee named by the Society to examine into the facts of he death of Rice, as detailed by the valet Jones and into the evidence given by Dr. Loomis as to the effect of the embalming fluid entering by the right Brachial artery, on the lungs, and that it did not and could not enter the lungs, and he referred to the evidence and proceedings taken before the Committee on the action of the Society in adopting the action of the Committee and he read the report of Professor Eckles, of the Committee of Embalmers, that had been named by the Society to investigate the same question and claimed and insisted that the findings and the report of the Committee were conclusive that the death of Rice was due to natural causes, as was stated by the autopsy; that the death of Rice was not produced in any such a way or manner as was sworn to by Jones, and claimed that the scientific evidence on the various hearings of Committee of the Society had demonstrated beyond all question whatever, that Patrick was innocent of the crime

with which he was charged, tried, convicted and sentenced, and for which he was now serving a life imprisonment; that these facts occurred and were developed after the trial and conviction of Patrick and that they had not been brought and could not be brought to the attention of the Court, and that he was still languishing in prison but was unwilling to accept a pardon, because he felt and insisted that he was innocent, and that the acceptance of a pardon, would be a tacit acknowledgment of his guilt—all of which had delayed the action of the Society in bringing it to the attention of the Executive of the State. Mr. Bell claimed that he was impelled by a sense of his duty to the Society, and the public, and to the cause of justice, to call the attention of the Society to the situation and ask for the action of the Society upon the whole case. He asked for an expression as to whether any doubt remained whatever of the innocence of Patrick and asked for a vote upon that question. A vote was taken and the action was unanimous that in the opinion of the Society Patrick was innocent of the crime with which he had been charged and convicted. Mr. Bell then stated that he had recently had conversations and interviews with Professor Larkin, who still adhered to the views expressed in the article which had been read and he assured him that in his opinion there was no doubt whatever of the innocence of Patrick of the crime for which he had been tried and convicted, and that Professor Larkin had consented to attend the meeting and speak upon the subject and he expected him to be present during the session and to state his views in that respect.

Mr. Bell then moved that the Chairman name a Committee of Three to memorialize the Executive of the State upon the case and to ask for a modification of the commutation of the sentence by which Patrick could be discharged as an innocent man, and that said Committee have full powers and that it should present the case to the Governor and that the medical profession of this State and of the country be asked to co-operate with the Society in its efforts to procure the enlargement of Mr. Patrick and that the public press be asked to do so and that Dr. Larkin and Dr. Hanlon be also invited to co-operate in the work of the Society in that respect; that the Committee be asked to report progress at the next meeting of the Society.

A discussion ensued in which J. Joseph Kindred, the newly elected Member of Congress from Queens County, Superintendent of the Rivercrest Sanitorium at Astoria, spoke at some length, fully endorsing the views expressed by Dr. Larkin in his communication to the New York Herald, and saying that it was quite clear that the medico-legal evidence upon which Patrick was convicted—especially as to the action of chloroform on the lungs—was entirely unreliable, unscientific, and should and could not be recognized by medical science.

The motion was unanimously adopted and the Chairman named as such Committee Mr. Clark Bell, Chairman; Professor H. S. Eckels, of Philadelphia, and Dr. J. Joseph Kindred, of Astoria, Long Island. The Committee were empowered to add to their number at their discretion and empowered to send for persons and papers and to call upon professional men to co-operate and make statements for use before the Executive or in any proceeding.

The Society then went into joint session with the Psychological Section, Dr. Floyd B. Wilson, Chairman of the Society, presiding. The following papers were then read: Progress of Psychological Science in the departments of criminology, penology and alcoholism, by Clark Bell, Esq., LL. D.; a paper by Mr. Frederick Keeler on the Soul Defined. A paper of Miss Villa Faulkner Page's was discussed at considerable length by the Chairman of the Section, by Miss Villa Faulkner Page, by Clark Bell and by Mr. Eugene Del Marr. Miss Page then made an address upon Psychotherapeutics in its broadest sense in

relation to medico-legal subjects, particularly with reference to the science of health. Mr. Bell read a paper in which he presented the sermon of Chancellor Lloyd George of England, recently delivered in London, and the various papers alluded to in his paper first named.

It was moved and carried unanimously that the rule requiring the election lists and tickets to be sent to members as required by the Constitution be suspended in this election, for the reason that there were no contestants for the various officers and that the secretaries have power to fill any vacancies in the offices by reason of death or refusal to serve or run when placed in nomination, or to make such changes in the ticket as in their judgment shall be deemed for the best interests of the Society.

WM. H. FRANCIS,
Vice-President.
CLARK BELL,
Secretary.

MEDICO-LEGAL SOCIETY.

THE CASE OF PATRICK.

REPORT OF THE SELECT COMMITTEE OF PROGRESS TO THE SOCIETY, DECEMBER 21, 1910.

At a meeting of the Executive Officers of the Medico-Legal Society, held at the office of the Medico-Legal Society, No. 39 Broadway, New York City, on the 12th day of December, 1910, Clark Bell, Esq., Chairman of the Executive Committee, in the chair, and B. J. DeVoll acting as secretary, the following action was taken:

Mr. Bell laid before the Committee the Minutes of the Meeting of the Society of November 30th, 1910, and a statement that as Chairman of the Committee he had received the consent of Professor H. S. Eckels and Dr. J. J. Kindred to act as such Committee. That on the fifth day of December, 1910, he sent the following telegram to Governor Horace White at Albany:

"December 5th, 1910.

"At what hour to-morrow or Wednesday, can you see a Committee of which I am Chairman, on urgent business of high public importance. Please answer by wire.

"CLARK BELL, 39 Broadway, New York."

That on the evening of the fourth of December, he had an interview by telephone with Professor H. S. Eckels at his residence in Pennsylvania who then consented to act and co-operate with the work of the Committee and informed Mr. Bell that he should go on a night train that evening to Buffalo and would remain there during the week. And on the fifth day of December, 1910, Governor White telephoned Mr. Bell by long distance telephone through his private secretary in which Mr. Bell informed the Governor through his secretary of the nature of the business. Whereupon Mr. Bell was advised to prepare a preliminary statement showing the nature of the application to forward it to the Governor upon which the Governor would name as early a day as possible for a hearing to be made upon the subject before him at Albany, which Mr. Bell upon behalf of the Committee promised to do. Mr. Bell then telegraphed Dr. J. J. Kindred at Washington, D. C., as follows:

"Could you meet Governor at Albany with me to-morrow or Wednesday? Please answer by wire. Clark Bell."

To which Mr. Bell received the following reply on December 5th, 1910:

"Telegram received. I have to be here in connection with next Con-

gressional Session. Am sorry it is impossible for me to go with you to Albany. Will mail my remarks at last meeting. J. J. Kindred."

Mr. Bell stated that he had been engaged since that date with a corps of stenographers and typewriters preparing his brief and arguments upon the appeal and application thus made to the Governor in pursuance of the direction of the Society on the 30th day of November, 1910, and he then laid before the meeting a copy of the appeal to the Public Press, Bar, Medical Profession and Public, and the Preliminary Statement of the case which he had prepared to be sent to the Governor, and asked for the instruction of the Executive Board.

It was moved and unanimously carried that the action of Mr. Bell be approved and endorsed by the Executive Board, that the preliminary application be approved as to form, and that the same be mailed to the Governor, that the appeal to the Press, Medical Profession, Bar and the Public as presented meets with the full approval of the Board of the Executive Officers, and that the Committee be instructed to have the same printed, mailed to the members of the Society and to such persons as are in sympathy with the action of the Body or believed to be in sympathy in respect to this case. It was unanimously moved and carried that Mr. Clark Bell be appointed as the attorney and counsel for the Medico-Legal Society. It was fumrther moved and carried that in view of the importance of the case this action be sent to the members of the Executive Board for their approval who were not present at the meeting.

It was moved and unanimously carried that the members of the Society are requested to sign and procure others to sign the petition and to return the same to the Chairman of the Committee, and that they obtain the co-operation of the press in furtherance of the activities of the Society now being taken in the case of Patrick.

On motion the Board adjourned.

CLARK BELL,
Chairman.
B. J. DeVOLL,
Assist. Sec.

The undersigned members of the Executive Committee of the Medico-Legal Society hereby approve of the foregoing action of the Executive Officers.

FLOYD B. WILSON, LL. D.
VILLA FAULKNER PAGE.
A. W. HERZOG, M. D.
C. F. MARSH.
S. L. BEAN.
EUGENE DEL MAR.
CLARK BELL, Chairman.
B. J. DeVOLL, Assist. Sec.
H. S. ECKELS.
S. F. KNEELAND.
W. H. FRANCIS.
CAROLINE J. TAYLOR.

THE LETTER OF ALBERT T. PATRICK TO CLARK BELL.

HON. CLARK BELL,
Ex-President Medico-Legal Society,
Chairman of Committee:

Dear Sir:—

I have been apprised of the work done by the Medico-Legal Society in the interest of science and demonstrating the fallacy of the expert testimony upon which I was unjustly convicted.

I hereby appepal to you and your Honorable Society for your assistance in causing the result of your investigations to be presented to the Governor of New York in connection with an application for an early termination of my present sentence by an unconditional commutation of sentence.

Thanking you for your interest and work in the cause for Science and Justice, I am,

Very sincerely, Yours,
ALBERT T. PATRICK.

BEFORE THE GOVERNOR OF THE STATE OF NEW YORK.

In the Matter of the Application
of
THE MEDICO-LEGAL SOCIETY
for a modification of the commutation of the sentence of ALBERT T. PATRICK, now serving a Life Sentence for the alleged murder of William M. Rice.

SELECT COMMITTEE OF THE MEDICO-LEGAL SOCIETY:
CLARK BELL, LL D., Chairman
PROFESSOR E. S. ECKELS
HON. J. JOSEPH KINDRED, M. D.

To HIS EXCELLENCY, HON. HORACE WHITE,
THE GOVERNOR OF THE STATE OF NEW YORK.

Honored Sir:—

The undersigned have the honor to submit the following preliminary statement of the memorial and application, in accordance with your suggestion, pursuant to the directions and instructions of the Medico-Legal Society, which directions were unanimously adopted at a Regular Meeting of the Medico-Legal Society, held in the City of New York, on November 30th, 1910.

First: The Medico-Legal Society is an incorporation duly organized pursuant to the provisions of an Act of the Legislature entitled "An Act of Benevolent, Charitable, Scientific and Missionary Societies", which was organized on June 20th, 1868.

Second: The Committee respectfully submits herewith, under separate cover, the Constitution and By-Laws of the Medico-Legal Society, which show the scope of authority and the general work of the said Society, marked "Exhibit A."

Third: The Committee respectfully submits further a copy of the Minutes of the Medico-Legal Society, at its meeting on November 30th, 1910, which are marked "Exhibit B." That the Committee is proceeding under such action of the Medico-Legal Society.

That the said Minutes show the transactions of the meeting of the said Society of that date.

Fourth: The Medico-Legal Society began to interest itself in the case of Patrick after the trial, conviction and sentence of the accused upon the application of a member of the Society, which was referred to a select committee, appointed by the President of the Society. The Committee was authorized and directed to investigate the effect of the embalming process on congestion of the lungs before *rigor mortis* without withdrawing the blood from the body. The President, by the direction of the Society, appointed a Select Committee of eminent scientists, of which A. P. Grinnell, M. D., was made Chairman, with five associates, and the President submitted to them a careful statement of the case, enumerating the questions involved, with authority to conduct examinations and make researches, to take authority from evidence from experts, and to report the results of their examinations to the Society at an early day, upon the testimony of all the witnesses upon the trial from the printed case on appeal, on all the questions bearing upon the inquiry, and the Committee was directed to eliminate from their minds any and all questions respecting the guilt or innocence of Mr. Patrick, and they were instructed to consider the case only in its scientific and medico-legal aspects.

Fifth: This Committee, after having entered upon its duties, and after having made a careful and complete examination of the subject, made its report to the Society on February 15th, 1905, by which it concluded that Rice had died from natural causes and not from chloroform poisoning, and that the evidence of Jones was a fabrication, untrue in

fact, incredible and absolutely impossible. The full report of this Committee will be submitted on the hearing before your Excellency. This report was received and discussed by the members of the Society at a Regular Meeting on February 15th, 1905, and was unanimously adopted by the Society.

Sixth: In June, 1906, the subject was again discussed before the Medico-Legal Society by leading embalmers and others, and another Select Committee under the chairmanship of Professor H. S. Eckels, of the School of Embalming of Philadelphia, was appointed and directed to consider the whole subject and to report in the Fall of 1906. This action reduced the question of the guilt or innocence of Patrick to the single and simple question of fact as to whether the embalming fluid did or did not enter the lungs of Rice, because Patrick's conviction was based on the opinion of medical witnesses who swore on the trial "that the embalming fluid could not and did not enter the lungs of Rice, which had been examined and incised by the Coroner's physician who conducted the Post Mortem, and the lungs of Rice were restored to the cadaver and allowed to be cremated by the Coroner's physician, as the deceased had requested before his death. This medical testimony was not contradicted or denied on the trial, and it was assumed by the Judge who tried Patrick to be true, and by the Juges of the Court of Appeals, who voted to affirm the judgment of conviction.

Seventh: On the 19th of December, 1906, this Select Committee submitted two reports. One, preliminary, on embalming by the right Brachial Artery in its relation to the case of Patrick, and second on the main question of the elimination of poisons in the embalming fluids, used by embalmers in the preservation of the bodies of the dead. Both of which reports were received and read before the Medico-Legal Society at its regular meeting on December 19th, 1906, and after discussion was unanimously approved by the Society.

Eighth: On the 9th day of August, 1906, in the City of New York, this embalming committee demonstrated that when a body is embalmed by the right brachial artery, as the body of Rice was embalmed by the man who did the embalming, that the fluid must and always does enter the lungs and this Committee under the charge of Professor H. S. Eckels on the said day did in the presence of a large body of embalmers from all parts of the United States thus embalm a body of about the same age and build as Rice, and every member present and all the audience saw that the fluid does and did enter the lungs as a matter of fact, by which demonstration the innocence of Patrick of the death of Rice became a matter of scientific demonstration.

Ninth: That neither of these reports of either of the Committees have ever been submitted or considered by any Judicial Tribunal nor by Governor Higgins, or any Governor on any application, and are now presented to the consideration of your Excellency for the first time. The reasons why these reports were not so submitted are because the case was in such a condition that the Medico-Legal Society did not have the permission or the consent of Mr. Patrick to do so.

Tenth: If the slightest doubt exists in the mind of the Governor of the scientific fact that the embalming fluid must and does enter the lungs where the embalming is by the right Brachial Artery in the manner described by the witness who embalmed the body of Rice, the Medico-Legal Society will at its own cost and expense embalm a body in the presence of the Governor or of such a person as he may designate to be present and witness such experiment.

Eleventh: On the hearing of the application this Committee will furnish evidence to the Governor that during the year 1910 all the indictments against Patrick and against the witnesses to the will of Rice, who were indicted on an alleged charge of forgery and have rested under such charge for many years, have, since the coming in of District

Attorney Charles S. Whitman, been dismissed and are no longer in force against the accused, Albert T. Patrick, or the witnesses to the will of Rice whose evidence will found in the papers on file and used on the appeal to the New York Court ofAppe als as to the execution of the will, which is a most significant fact in the history of this remarkable case.

Twelfth: On the hearing of the memorial and application the Committee, by Clark Bell, Esq., its counsel and the attorney for the Medico-Legal Society, will submit to your Excellency extracts from the printed case on appeal and motion for new trial, on file, of which careful notice will be given as to pages, dates, place and the selections to be marked for consideration by your Excellency in passing upon the merits of the question.

Thirteenth: The Chairman of the Committee takes pleasure in announcing that the Committee are now acting with the full sanction and approval of the defendant Patrick and at his written request.

Fourteenth: The Medico-Legal Society meets on the 21st inst. at the Waldorf Astoria, in the City of New York, at which this Committee is expected to make a report. The Committee would be greatly pleased if you would appoint the day for the hearing not later than the 19th, as we understand that the pressure of your official duties would render it difficult for you to hear it before the 18th inst.

Hoping to have the hearing at as early a day as you can possibly fix, we have the honor to remain,

Very respectfully yours,

CLARK BELL,
H. S. ECKELS,
J. JOSEPH KINDRED,
Committee.

Dated, New York, December, 12, 1910.

JOURNALS AND BOOKS.

THE PERSONAL INJURY LAW JOURNAL.—Walter S. Nichols, A.M., Editor. Walter Henry Wood, LL.B., Associate Editor. C. C. Hine Sons Co., Publisher, 100 William Street.

Vol. No. 1 of this Journal appeared in July, 1910. It proposes to publish reports and headnotes of all decisions in personal injury cases in the Federal Courts and in the Supreme Courts.

This is a large proposition and its first number contains 450 pages. It devotes 18 pages to its first case from the Kentucky Court of Appeals, 17 pages to its second case from West Virginia Court of Appeals, and in its first fifty pages reports cases with elaborate head notes, name of counsel and the work well done and the work makes a large volume for the library.

Seventy-one cases are noted and reported upon in the first number.

Number 2, the August Number of this Journal, commences with page 449 and extends to page 895, exclusive of about 50 pages of indexes, tables of cases, amounts, etc., which is announced will be issued as Volume I and will contain nearly 1,000 pages and the whole to make the work to be issued two volumes a year from and after January 1, 1911. If it takes as much space as the two numbers sent us, it will require three and perhaps four volumes each year in future if it comes out as it announces, its purpose of reporting each case as has been done in the first two numbers.

The Index in the second number is most comprehensive and most valuable. It will be highly prized by the profession. The work will cost $15.00 per annum but it will be well worth the money.

The classification of the cases and the index of the subjects brings the decisions in these cases all collected to the hand of the practising lawyer.

We think that the profession will patronize this work.

It will be a great help to the active practitioner.

PROSPECTUS OF VOLUME 28

OF THE

MEDICO-LEGAL JOURNAL.

The volume opens with the most strenuous labors before it that has occurred in its history.

The unfinished work of the Medico-Legal Society will no doubt occupy a large part of the columns of the current volume.

The American International Congress of 1910 will greatly interest the Medico-Legal Society. Its session in 1910 expected, when announced to be held in the fall has not yet been decided upon. The relation of bovine to human tuberculosis has assumed very great prominence and must be regarded as depending on research and experimentation now progressing.

The Washington International Congress which discussed this question with great earnestness, reached no definite action or scientific result.

Professor Koch, who took part in the discussion, made no modification of the views he had previously expressed at Stockholm, that his researches did not justify him in asserting that it could be positively demonstrated as a scientific fact, that Pulmonary Tuberculosis (of which he had previously discovered the bacillus) was communicable to man from the bovine bacilli. While this doubt and view was stoutly opposed by almost every prominent American student competent to speak from actual research and scientific personal knowledge (of which there are unfortunately so few in this country) by many of the foreign delegates who were competent to speak, the doubt of Koch dominated the Washington Congress and it adjourned without taking definite action and although many of the foreign authorities combated Professor Koch's view, the silence of some very high authorities abroad and those of the American International Congress on Tuberculosis who sympathized with Professor Koch's view; who as a rule did not take part in the discussion at Washington; the generally understood sympathy of certain prominent foreign observers sympathizing with Professor Koch's attitude, it is an undeniable fact that at the close of the Washington Congress, the cruical question was left in abeyance, undecided, to be determined in the future by farther research and more careful, cautious and competent investigators.

The question is still in the same uncertainty to-day. Professor Von Schroen of Naples, whose recent contribution is as yet the last authoritative word that has been spoken and that relates to the Phthisiogeneous Microbe of Phkhisis of the Lungs.

The question of preventive legislation has assumed a still greater significance, and it is by far the highest question in forensic medicine that agitates the ablest medico-legal jurists of our century and the world of scientific endeavor.

The symposiums before the Medico-Legal Society to-day on which so much labor has been already expended will continue during the volume just opening.

More attention will be given to the medical jurisprudence of Insanity and the work of the great State hospitals of our own and other states will receive special attention in this volume, and more in detail than ever before.

"Psycho-Therapeutics" will be an especial feature of the coming volume which now excites such interest, and the various cults and special claims considered.

"Longevity and the Relation of Age to Useful Work" will be continued in the columns, and the "Prolongation and Study of Human Life" will receive more attention than hitherto.

A prominent feature of the work will be a continuation of the "Studies of the History of the Supreme Court of the States, Territories and Provinces of North America." The aim has been to embrace in the work a portrait and a biographical sketch of every judge of the Supreme Court from its organization, and the original Thirteen Colonies of its colonial, judicial and pre-Revolutionary histories as well. This has been compiled for New York, Pennsylvania, Connecticut, New Hampshire, Rhode Island, Delaware, Georgia and New Jersey of the original colonies, all but Maine, Massachusetts and Vermont of the New England States, Maryland, Virginia and both Carolinas. Each of the States of Ohio, Minnesato, Oregon, Kansas and Texas has been substantially completed. The work is now progressing on the new State of Oklahoma and of the territorial and Indian judicial history of the Indian Territory, of Oklahoma Territory, which commenced in Volume 26, continued in Valume 27 and 28, Arkansas, Wyoming, Louisiana and Missouri, both the Dakotas, California and Washington are now progressing. It has been continued in Nebraska, in the Dominion of Canada, and in Cuba. The progress of the science of medical jurisprudence in foreign countries and in our own country will be within the province of the coming volume, and the JOURNAL, as the organ of the Medio-Legal Society, will endeavor to keep pace with the onward march of civilization and of progress in the departments of science that are now arresting the attention of the world of science in every depar n ent of f orensic medicine.

June, 1910. CLARK BELL, Editor.

THE

Medico-Legal Journal

Published quarterly under the auspices of the Medico-Legal Society of New York

VOL. XXVIII NO. 3

DECEMBER

New York
MEDICO-LEGAL JOURNAL
1910

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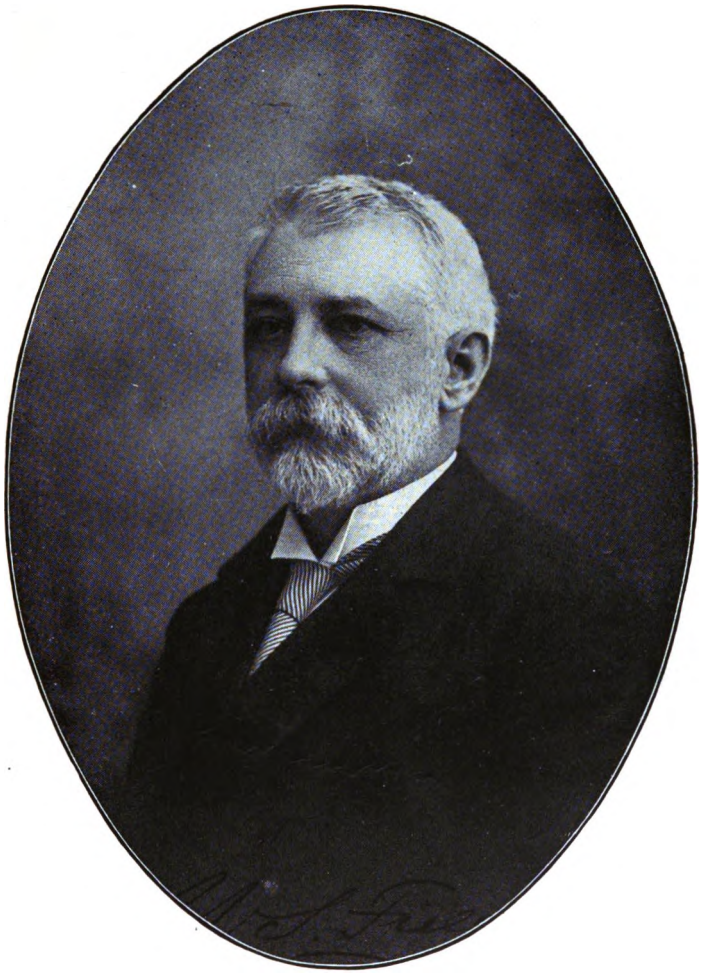
New York City.



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TO EXPEDITE THE ADMINISTRATION OF CRIMINAL JUSTICE.

By Ex-Judge A. J. Dittenhoefer.
(Of the New York Bar.)

The swift but orderly administration of criminal justice in England as exemplified in the trial and conviction of Dr. Crippen for the crime of murder, the determination of his appeal and the execution of the death sentence has directed renewed attention to the administration of criminal justice in our State. That there are many vexatious and unnecessary delays cannot be denied, but in proposing remedies care should be taken that the defendant in a criminal proceeding, no matter how much the public is howling against him, should have a fair and honest trial. With these views in mind, I venture to make the following suggestions tentatively. Some of them may be considered extremely radical, but I have often in my long career been ahead of the times in advocating political, social and economical reforms which have eventually been accepted:

1. The office of Coroner should be abolished and its duties vested in the police magistrates. As at present organized much delay is often caused by the unnecessary preliminary proceedings before a Coroner. Most of the Coroners, having had no legal education, are not competent to conduct a judicial or quasi-judicial proceeding.

2. In minor cases and in all cases that involve imprisonment, say, for less than three years, an indictment should not be necessary. Indeed, grand juries, as a rule, hear only such evidence as the District-Attorney presents, and in ninety-nine out of a hundred cases they find or refuse to find an indictment, as the District-Attorney may advise.

Why not, then, avoid the delay caused by this intermediate body, and let the District-Attorney in the first place file in the office of the Clerk of the Criminal Courts, a complaint on behalf of the State against the accused defendant, setting forth the offence with which he is charged clearly, concisely and plainly, and annex to the complaint an affidavit sworn to by him that the complaint is made on facts within his own knowledge or on information which he considers trustworthy, received by him in his official capacity? On the back of the affidavit should be indorsed the names of the witnesses and the sections of the law it is alleged have been violated by the accused. On the complaint the Judge sitting in the Criminal Court should be authorized to issue a bench warrant and admit the defendant to bail, and in his discretion, on application of the defendant, made on short notice, he should have the power to refer the complaint to a police magistrate who should be required to make a summary investigation. On that investigation the District-Attorney should examine the witnesses indorsed on the complaint, in the presence or absence of the defendant, as may be thought best, it being borne in mind that the defendant is not now allowed to be present in the Grand Jury room. The defendant should have the right at his peril to give evidence on his own behalf, but should have no right, as is now the case under the Grand Jury system, to call witnesses or be repre-

sented by counsel. The Magistrate should be required to close the hearing within a certain number of days and file with the clerk of the Criminal Courts the record and a concise statement of his findings on the facts.

If the matter is not sent to a police magistrate, as above outlined, the criminal judge should order the case placed on the calendar for trial. If the matter is sent to a criminal magistrate on the filing of the record, as aforesaid, and also if the matter is not sent to a police magistrate, the defendant may, on two days' notice, apply to the judge to dismiss the proceedings. If they are not dismissed, the case should be ordered on the calendar for trial. No motion to quash or to dismiss, excepting as above stated, and no demurrer should be allowed, but all legal questions that can be raised on demurrer should be presented on the trial. Should, after a trial, this practice be found to work satisfactorily and do no injustice, it could be extended to all cases, excepting perhaps such as involve capital punishment. The Grand Jury in olden times was the bulwark of the subject against the aggressions of the Crown. At the present day and under existing circumstances, it has lost its importance.

3. The courts should be empowered to limit the examination of jurors by each side, say, to five minues. Knowing that there is a time limit, attorneys will condense their questions and, in most cases, succeed in obtaining within the allowed time sufficient information of their qualifications. The very great delay in the actual commencement of a trial, which has sometimes amounted to weeks, would thus be obviated.

4. No more than ten minutes should be allowed for the argument on the admission or rejection of evidence. In most instances no discussion is necessary, and there can be hardly a case in which ten minutes is not sufficient. Much waste of time would thus be avoided.

5. In all cases in which the trial occupies not more than, say, two days, the summing up of each side should be limited to, say, an hour and a half; in all other cases the limit should be in the discretion of the Court.

6. In all cases involving imprisonment, say, for more than five years the appeal should be directly to the Court of Appeals; in all other cases to the Appellate Division, whose decision, if concurred in by four judges, should be final; if concurred in by only three judges, they in their discretion, for good cause and on application of the appellant, made during the term when the decision was rendered, may certify the questions raised on the appeal for review by the Court of Appeals. If this power were lodged in the entire bench instead of in the three concurring judges, the dissenting judges, it is fair to presume, would be inclined to vote in favor of letting the case go to the Court of Appeals. The delays now caused by the piling of appeals on appeals would thus be avoided.

7. If the judgment is reversed and a new trial ordered, and on the second trial there is a conviction on the same complaint or indictment, there should be only one appeal to the Appellate Division, and if the conviction is affirmed the decision should be final.

If there should be a reversal on the last mentioned appeal and a conviction had on the third trial on the same complaint or indictment, there should be no further appeal allowed.

This is not written with the expectation that all its suggestions will meet with immediate approval, but in the belief that it will be recognized, that some of them at least would prove effective in improving and expediting the administration of criminal justice without depriving the accused party of any substantial right and of a fair and impartial trial and protection from persecution as distinguished from prosecution.

LEX MEDICINAQUE.

By Mrs. Mary E. T. Chapin, of Boston.

(Read before the Medico-Legal Society, December Meeting, 1910.)

I am so recent a comer to the Medico-Legal Society that perhaps unwittingly I violate its ethics in writing a word or two about law and medicine. But I do not believe the society took its name on the principle of *lucus a non lucendo*. Then, too, since I do not profess to know anything of either law or medicine you may perhaps think me presumptuous in writing on both. However, I believe I have found out something about making sick people well. Since I really want to write about the relation of law and medicine to healing, perhaps I should add a third word to my title and write it Lex, Medicina Medicatioque.

Apparently just now the New York County Medical Society makes some special effort to get after non-certified people who profess to heal. I think you will promptly agree that the law properly concerns itself with the matter only as it affects the welfare of the community at large.

Doubtless there are many who cover the hand that transfers money from other peoples' pockets to their own with a glove labeled "non-medical and non-surgical healing," or "mental healing" for short, and under the pretext of curing some bodily ill without extraneous agencies, really have an eye single to amputating the far from useless pouch that contains the coin. Probably in an exceptionally large percentage of cases this operation is entirely successful—and the patient does not die.

Still the patent medicine stalks abroad with scarcely ever diminished head, and each specific promises to cure every physical ill catalogued from A to Z inclusive. This practice has the reputation of having founded many large fortunes, but it is not known that "mental healing" of any kind has founded more than one.

It may be that the frauds of non-medicinal non-surgical healing have done injury to the person as well as to the pocket-book. So have the frauds of medicinal healing, the paregoric soothing syrup et al. Yet I have not heard it proposed that therefore the practice of medicine be done away with. Does the law as administered fully safeguard the public from damage at the hands of some even properly certificated within both the legal and medical professions? It is far from my thought to make an attack on either doctors or lawyers. If there were no other reason, I count too many good friends among both classes. Doctors have survived the lambasting of Gil Blas and many less entertaining onslaughts. Bleak House and multitudinous less interesting muckraking articles on the law have not put an end to its being an occupation in good standing. It is worth while to notice, however, in passing, that the medical profession no longer regards copious blood letting and other matters mentioned in Gil Blas as the most scientific modern practice, and that since the time of Bleak House the law has managed to avoid some of the delays in chancery. Criticism, constructive and other of the uncertificated has all along modified the beliefs and practices of the certificated in science in general, as well as in medicine in particular, and in law in general, including theology as well as in the more specific "law

of the land," and unless these changes have been steps backward, a view I hardly expect practitioners of any kind will take, these modifications have benefited the community.

I desire the good of the community as earnestly as any member of this society, and ask the physicians and lawyers in it if the statutes can not be so framed and administered as to admit to the community the benefits, if any, of non-medicinal non-surgical treatment, even if "uncertificated"?

One course lies open—for the uncertificated to become the certificated. In the long run I believe this will take place. I am confident that my own direction of work in non-medicinal non-surgical healing follows principles so important, far reaching and efficacious that they will eventually modify the teaching and practice of the "schools" till the conversion of the uncertificated into the certificated will have taken place.

For the present we have so much to accomplish in non-medicinal non-surgical healing that to require every worker in this direction to become certificated before proceeding with the work I believe would give a serious set-back to progress in making sick people well and keeping well people as they are. (Only how few are wholly well!) Testing my theories in the work, say, of freeing a drunkard from the grasp of liquor so absorbs me and seems so important to me that I have not time now to learn all about the anatomy of a hair, however glad I should be to have that knowledge, or however willing I should be, if I were just beginning a preparation for my work, to acquire it for whatever good it might confer in suggesting, checking and guiding. Already the certificated regulars begin to follow this line of practice, but the non-certificated have been at it longer and have a fund of experience the community can not afford to lose the benefit of.

No occupation except the cure of souls, which until comparatively recent years was regarded as a matter entirely apart from bodies, has had so many widely diversified principles to go on as the cure of bodies. Mr. Post, of cereal-food fame, claimed that "grape nuts" were good for appendicitis and led thereby to considerable litigation. You know it was at one time a common, if not a professional, belief that the seeds of grapes caused appendicitis. Of course, you recall the celebrated bit of evidence that some part of the idea at least is true—namely, the news of the cannibal tribe that died off after eating seedy missionaries. Mr. Post in advocating "grape nuts" for appendicitis, alleged popularly to be caused by the seed of grapes, doubtless went on the principle "Similia similibus curantur." Well, the non-medicinal non-surgical healing comes forward with new principles more logical than that famous old one.

It is all so new you see at what a disadvantage I am even in the matter of nomenclature. The terms "mental healing," "psychotherapy," etc.. have suffered so much from abuse at the hands of those whom I wish were not using them that to give even a name to this work I have had to resort to the awkward circumlocution of "non-medicinal non-surgical"; to define it by what it is not rather than by what it is. In trying to say anythinng whatever about it I am put to straits by the painful paucity of any vocabulary in the subject. I have in the past described it as "marshalling the forces of life" and so far as the phrase goes that perhaps does as well as anything. All of us have a rallying power, an inch further we can go after we have thought we have gone our farthest. We have, too, a power through concentration, so that by bending all our energies to one thing we can accomplish in that direction results that ordinarily seem impossible to us. To use a common simile: The scattered rays of the sun give only an agreeable warmth. Bring them to a focus with a lens and you set fire to any inflammable material. We all know we possess of ourselves these rallying and concentrating powers to some extent. The work of the "non-medicinal non-surgical" healing, if you will pardon the iteration of the awkward phrase, comes in

extending these powers or in bringing them up at times of submergence. It is not the place here to go into methods. They are being worked out with large, I may say with astonishing success and rapidity. As the case with some other powers than these "forces of life" it has been easier to manipulate the powers, to bend them, so to speak, to our uses, than to describe just what they are. And there are other powers than these of rallying and concentrating. I have picked out two readily recognizable simply to indicate that something definite is being driven at and being accomplished, and to lead to the question if the law should not foster rather than repress searching and accomplishing of this kind?

MEDICAL EXPERT TESTIMONY.

PROPOSED CHANGES.

By Ex-Judge A. J. Dittenhoefer, of the New York Bar.

Advance sheets to be read before Medico-Legal Society, March Session.

I make the following suggestions as a contribution to the profession regarding the much-needed changes in the existing law respecting Medical Expert Testimony, covering which a symposium has been requested from both professions, and which is now being considered by a select committee of the Medico-Legal Society arising out of the bill proposed by Chief Justice L. A. Emery, of the Supreme Court of Maine. This is not submitted as to the bill he presented as an amendment to that bill, nor the principle underlying it, but as a practical suggestion to this subject in the administration of criminal justice in the State of New York.

I suggest that a certain number of medical experts be appointed on the first Monday of January of each year, one half by the Governor and one half by the Chief Justice of the Court of Appeals. They should receive a fixed salary. The defendant and prosecutor should have the right to make selections from these experts without any charge to them, and it should be a misdemeanor for the defendant or anyone else to pay or for the expert to receive any additional compensation. If the defendant or prosecution call in an expert other than one of the official experts, and in my opinion it would be unconstitutional to deprive the defendant of that right, counsel should be allowed to comment on the fact and it should be called by the Court in its charge to the attention of the jury with a statement of the law under which the official experts are appointed. This system would, it is believed, stamp out to a great degree the scandal at present existing of experts of equal distinction testifying against each other, and on the side on which they are retained and from which they receive compensation.

What has recently occurred in the Robin case proves absolutely that even an honest medical expert may go wrong, how great then is the necessity for guarding the jury against the testimony of dishonest and prejudiced alienists who testify in favor of the side that retains and pays them. It is now certain that the experts employed by the District Attorney were unwittingly fooled into the belief that Robin was insane, and it requires no great stretch of the imagination to say that his own experts were willing to be deceived. The remedy suggested in this article would, I think, go far to correct this glaring evil. If the court is authorized to inform the jury that the defendant refused to avail himself of the services of the disinterested experts appointed by the State, without any cost to him, it is not likely that that body would place any faith in the testimony of any experts retained by him.

INSANITY AS A DEFENSE IN HOMICIDE CASES.

By Frank H. Bowlby.

Editor of Whaton on Homicide, and Legal Editor of Clevenger on Insanity and Whaton & Stille's Medical Jurisprudence.

Read from advance sheets by courtesy of Lawyers' Magazine, Rochester.

At the annual banquet of the New York State Bar Association, held recently at Syracuse, a special committee on the commitment and discharge of the criminal insane proposed the enactment of a statute providing: "If, upon the trial of any person accused of any offense, it appears to the jury, upon the evidence, that such person did the act charged, but was at the time insane, so as not to be responsible for his actions, the jury shall return a special verdict, 'Guilty, but insane;' and thereupon the court shall sentence such person to confinement in a state asylum for the criminal insane for such term as he would have had to serve in prison but for the finding of insanity; and if, upon the expiration of such term, it shall appear to the court that such person is still insane, his confinement in such asylum shall continue during insanity; and, further, when such a verdict of 'Guilty, but insane,' is returned in a case where the penalty for the verdict of guilty against a sane person is death, such sentence for the insane person thus found guilty shall be for life; but in all cases the governor shall have the power of pardon, after such inquiry as he may see fit to institute upon the question whether it will be safe to the public to allow such a person to go at large."

The purpose of the proposed statute is to remedy and prevent sham pleas of insanity in homicide and other cases, which, at times, have been very prevalent.

The state of Washington, a short time ago, made an effort to accomplish the same object, and has proceeded much further than has New York. But when New York proceeds, let us hope that she will proceed less disastrously. Washington enacted a statute in 1909, providing: "It shall be no defense to a person charged with the commission of a crime, that at the time of its commission he was unable, by reason of his insanity, idiocy, or imbecility, to comprehend the nature and quality of the act committed, to understand that it was wrong; or that he was afflicted with a morbid propensity to commit prohibited acts; nor shall any testimony or other proof thereof be admitted in evidence."[1] This statute went down in collision with the two constitutional principles which have been made a part of the Constitution of nearly, if not quite, every state in the United States, that "no person shall be deprived of life, liberty, or property without due process of law," and that "the right of trial by jury shall remain inviolate."

This enactment conflicted with the "without due process of law" principle on the theory that the sanity of the slayer at the time of the act goes to make up his guilt, as well as the physical commission of the act. If, at the time, he was insane to the extent that he could not comprehend the nature and quality of the act in question, how

1 Wash. Laws 1909, p. 891, § 7 Rem. & Bal. Code, § 2259.

can it be said to be his act, and why is not a prohibition to make this defense a denial of "due process of law"? And it conflicted with "the right of trial by jury shall remain inviolate," because it was "inviolate" at the time the Constitution was enacted.[2]

New York, however, has not attempted as much, and apparently what is suggestd is within constitutional limits. Under its proposed provision, the previous methods of prosecution, trial, and conviction are unchanged. The change is made in the disposition of the offender after a verdict of "guilty, but insane." The procedure to ascertain guilt or innocence, or sanity or insanity, will be unchanged. Probably the only criticism of the proposed law would be that, in view of the almost, if not quite, universal existence of the principle that sanity, at least, to the extent of being able to comprehend the nature of the act in question, is a necessary ingredient of crime, the prescribed verdict of "guilty, but insane," might be regarded as equivalent to "guilty, but innocent." But this would be a mere play on words; the intent is clear, and no one could be misled. This gives rise to an inquiry and speculation as to what now is the status of the criminal insane, and what would it be were the proposed New York law enacted.

Criminal Responsibility Generally.

Under existing statutes and rules it may be stated generally that a person who commits a crime acting under the impulse of mental disease is not criminally responsible therefor.[3] A person of insane mind is not subject to punishment for his criminal acts,[4] his insanity being deemed an excuse whenever it is the efficient cause of a criminal act.[5] And this is true though the insanity was brought on by the vices of the party himself.[6] Criminal acts from malice, and not from insanity, are punishable, though the mind of the person committing them was so affected as to avoid his acts in a civil case, as those of a lunatic.[7] And mental disorders cannot be regarded as evidence of insanity which will confer immunity from punishment unless they are caused by, or result from, disease or lesion of the brain.[8] And the unsoundness of mind must have been the cause of the crime,[9] and it must have been so excessive as to overwhelm reason, conscience, and judgment.[10] So, the unsoundness of mind which will excuse from criminal responsibility must be the result of mental disease, as distinguished from weakness or passion,[11] and the depression following physical illness, such as takes place ordinarily with men possessing fair average mental powers, cannot be regarded as insanity which

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2 State v. Strasburg (Wash.) 110 Pac. 1020. This case is set forth, with the individual opinion of each judge printed, in an article on "Insanity, a Defense," in 3 Lawyer & Banker, 362.

3 Hite v. Sims, 94 Ind. 333; Lilly v. People, 148 Ill. 467, 36 N. E. 95; State v. Mewherter, 46 Iowa 88; Abbott v. Com. 107 Ky. 624, 55 S. W. 196; State v. Jones, 50 N. H. 369, 9 Am. Rep. 242; Walker v. People, 88 N. Y. 86; Giebel v. State, 28 Tex. App. 151, 12 S. W. 591.

4 State v. Miller, 7 Ohio N. P. 458.

5 Lilly v. People, 148 Ill. 467, 36 N. E. 95; State v. Jones and State v. Miller, supra.

6 Cluck v. State, 40 Ind. 263; State v. Erb, 74 Mo. 199.

7 R. v. Tuth, 1 Wheeler, C. C. 52, note.

8 Gunter v. State, 83 Ala. 96, 3 So. 600.

9 United States v. Faulkner, 35 Fed. 730; Conway v. State, 118 Ind. 482, 21 N. E. 285; State v. Hockett, 70 Iowa 442, 30 N. W. 742.

10 State v. Murray, 11 Or. 413, 5 Pac. 55; Graham v. State, 102 Ga. 650, 29 S. E. 584; Com. v. Wireback, 190 Pa. 138, 70 Am. St. Rep. 625, 42 Atl. 542.

11 People v. Durfee, 62 Mich. 487, 29 N. W. 109.

will excuse crime;[12] nor is mere weakness of mind;[13] nor does bad education or bad habits excuse crime;[14] or the fact that the person is of a low order of intellect.[15] And the fact that a man is deaf and dumb does not render him irresponsible for criminal acts;[16] nor is crime excused because committed under the influence of fear and excitement,[17] or jealousy.[18] And mere frenzy or ungovernable passion, however furious, is not insanity which will excuse crime.[19] And the rule is the same though it temporarily dethrones reason, or for the time being controls the will, where the inability to control it arises from passion, and not from insanity.[20] When the conduct of a person is influenced by anger, malice, love of gain, or a heart bent on mischief, as distinguished from insanity produced by the visitation of God, he is responsible for his acts.[21] And mere mental depravity is not insanity in a legal sense,[22] neither is eccentricity, idiocy, or hypochondria, insanity which will excuse crime.[23] The insanity which will excuse crime must be not the mere impulse of passion, or idle frantic humor, but an absolute dispossession of the free natural agencies of the mind,[24] though it need not be furious and manifested alike on all subjects.[25]

General Mania and Idiocy.

The rule was laid down in the early history of the common law, that to be exempt from criminal responsibility, one must have been at the time so deprived of his understanding and memory as not to know what he was doing more than an infant or wild beast;[26] but this rule has become obsolete with reference to idiocy or imbecility, and the rule of the capacity of a fourteen-year-old child has been expressly repudiated.[27] So, the presence or absence of a delusion has

12 Goodwin v. State, 96 Ind. 550.

13 People v. Hurley, 8 Cal. 390; Conway v. State, 118 Ind. 482, 21 N. E. 285; Studsill v. State, 7 Ga. 2; Fitzpatrick v. Com. 81 Ky. 357; Newcomb v. State, 37 Miss. 385; State v. Palmer, 161 Mo. 152; 61 S. W. 651; Anderson v. State, 25 Neb. 550, 41 N. W. 357; Nevling v. Com. 98 Pa. 323; State v. Tex. Crim. Rep. 553, 67 S. W. 320.

14 United States v. Cornell, 2 Mason 91, Fed. Cas. No. 14,868.

15 Powell v. State, 37 Tex. 348; Fitzpatrick v. Com., supra. Alexander, 30 S. C. 74, 14 Am. St. Rep. 879, 8 S. E. 440; Nelson v. State, 43

16 R. v. Whitfield, 3 Car. & K. 121.

17 People v. Hurley, supra; Willis v. People, 32 N. Y. 715.

18 Aszman v. State, 123 Ind. 347, 8 L.R.A. 33, 24 N. E. 123; People v. Foy, 138 N. Y. 664, 34 N. E. 396.

19 Bolling v. State, 54 Ark. 588, 16 S. W. 658; Aszman v. State, supra; Fitzpatrick v. Com. 81 Ky. 357; People v. Finley, 38 Mich. 482; State v. Brooks, 23 Mont. 146, 57 Pac. 1038; People v. Foy, supra; Lynch v. Com. 77 Pa. 205, 1 Am. Crim. Rep. 283; United States v. Cornell, 2 Mason 91, Fed. Cas. No. 14,868.

20 Williams v. State, 50 Ark. 517, 9 S. W. 5; State v. Stickley, 41 Iowa 232; People v. Mortimer, 48 Mich. 39, 11 N. W. 776.

21 Com. v. Farkin, 2 Clark (Pa.) 208.

22 Goodwin v. State, 96 Ind. 550; Com. v. Van Horn, 188 Pa. 143, 41 Atl. 469.

23 Hawe v. State, 11 Neb. 537, 38 Am. Rep. 375, 10 N. W. 452; State v. Shippey, 10 Minn. 223, Gil. 178, 88 Am. Dec. 70; Sindram v. People, 1 N. Y. Crim. Rep. 448; Com. v. Cleary, 148 Pa. 26, 23 Atl. 1110; Johnson v. State, 100 Tenn. 254, 45 S. W. 436; United States v. Young, 25 Fed. 710; R. v. Vaughan, 1 Cox, C. C. 80.

24 People v. Carnel, 2 Edm. Sel. Cas. 200; Hoover v. State, 161 Ind. 348, 68 N. E. 591; Com. v. Mosler, 4 Pa. 264.

25 United States v. Faulkner, 35 Fed. 730.

26 Arnold's Case, 16 How. St. Tr. 764, Hargrave, St. Tr. 322.

27 Rogers v. State (Tex. Crim. Rep.) 28 S. W. 685. In State v. Richards, 39 Conn. 591, however, the court thought that imbeciles ought not to be held criminally accountable unless they have capacity equal to that of ordinary children of fourteen years of age, with the qualification that the comparison should be restricted to the matter of appreciating right and wrong, and the consequences of the act, and that the child taken as a standard should be one in humble life, with only ordinary training; but the court finally submitted the whole matter to the jury, requiring it to say whether the defendant had such knowledge of right and wrong, and such appreciation of the consequences and effects of his acts, as to be a proper subject for punishment.

been stated to be the true test of the presence or absence of insanity, the absence of delusion being a characteristic of a sound mind.[28] But the rule that the presence or absence of delusion cannot be said to be the only legal test as a rule of law has been adopted in civil cases.[29] And delusion, though not a test, or not the sole test, is evidence of insanity.[30] Likewise, some of the cases have adopted the rule that the test of criminal responsibility is the mental ability to discriminate between abstract right and wrong, criminal responsibility existing where there is sufficient mental capacity to know right from wrong.[31] And one who has not such capacity is not a proper subject of punishment for criminal acts.[32] This rule, too, though at one time well supported, has been generally, if not universally, superseded by other rules, notably the one immediately following.

The prevailing modern rule, which is fast becoming universal, is to test the capacity to distinguish between right and wrong in the concrete instead of the abstract, as having reference to the particular act in question, the test question being whether the accused was capable of distinguishing between right and wrong with respect to the particular act which he committed.[33] Under it insanity which will excuse a criminal act must amount to a derangement so great as to obliterate the sense of right and wrong as to the particular act done, at the time of its performance,[34] or as to render the party unconscious that in doing the particular act he was committing a crime.[35] The ability to distinguish between moral good and evil, as distinguished from legal good and evil, has been asserted as a test.[36] But the modern rule would seem to require an absence of knowledge that the act was wrong, either in a moral or a legal sense, in order to relieve from criminal responsibility.[37]

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28 Com. v. Meredith, 17 Phila. 90; Hadfield's Case, 27 How. St. Tr. 1282.

29 Denson v. Beazley, 34 Tex. 191; Manhattan L. Ins. Co. v. Broughton, 109 U. S. 121, 27 L. ed. 878, 3 Sup. Ct. Rep. 99.

30 Com. v. Meredith, 14 W. N. C. 188.

31 Beasley v. State, 50 Ala. 149, 20 Am. Rep. 292; Brinkley v. State, 58 Ga. 296; Hornish v. People, 142 Ill. 620, 32 N. E. 677, 18 L.R.A. 237; Conway v. State, 118 Ind. 482, 21 N. E. 285; Cunningham v. State, 56 Miss. 269, 31 Am. Rep. 360; State v. Redemeier, 71 Mo. 173, 36 Am. Rep. 463; Burgo v. State, 26 Neb. 639, 42 N. W. 701; Walker v. People, 88 N. Y. 86, affirming 1 N. Y. Crim. Rep. 7; Nevling v. Com. 98 Pa. 323; Giebel v. State, 28 Tex. App. 151, 12 S. W. 591.

32 United States v. Shults, 6 McLean 122, Fed. Cas. No. 16,286; Anderson v. State, 42 Ga. 9; Hays v. Com. 17 Ky. L. Rep. 1147, 33 S. W. 1104; Willis v. People, 32 N. Y. 715; Com. v. Winnemore, 1 Brewst. (Pa.) 356.

33 Lide v. State, 133 Ala. 43, 31 So. 953; State v. Barthleman, 120 Cal. 7, 52 Pac. 112; Taylor v. State, 105 Ga. 746, 31 S. E. 764; State v. Mowry, 37 Kan. 369, 15 Pac. 282; Abbott v. Com. 107 Ky. 624, 55 S. W. 196; State v. Knight, 95 Me. 467, 50 Atl. 276, 55 L.R.A. 373; State v. Redemeier, 71 Mo. 173, 36 Am. Rep. 462; Knights v. State, 58 Neb. 225, 76 Am. St. Rep. 78, 78 N. W. 508; People v. Krist, 168 N. Y. 19, 60 N. E. 1057; State v. Spivey, 132 N. C. 989, 43 S. E., 475; Blackburn v. State, 23 Ohio St. 146; Maas v. Territory, 10 Okla. 714, 63 Pac. 960, 53 L.R.A. 814; Com. v. Lutz, 10 Kulp, 234; State v. McIntosh, 39 S. C. 97, 17 S. E. 446; Johnson v. State, 100 Tenn. 254, 45 S. W. 436; Evers v. State, 31 Tex. Crim. Rep. 318, 37 Am. St. Rep. 811, 20 S. W. 744, 18 L.R.A. 421; People v. Calton, 5 Utah, 451, 16 Pac. 902; Vance v. Com. 2 Va. Cas. 132; Eckert v. State, 114 Wis. 160, 89 N. W. 826; Youtsey v. United States, 38 C. C. A. 562, 97 Fed. 937; R. v. Layton, 4 Cox, C. C. 149.

34 McAllister v. State, 17 Ala. 434, 52 Am. Dec. 180; Marceau v. Travelers' Ins. Co., 101 Cal. 338, 35 Pac. 856, 36 Pac. 813; Hornish v. People, 142 Ill. 620, 32 N. E. 677, 18 L.R.A. 237; State v. Wright, 134 Mo. 404, 35 S. W. 1145; People v. Montgomery, 13 Abb. Pr. N. S. 207; State v. Alexander, 30 S. C. 74, 14 Am. St. Rep. 879, 8 S. E. 440; Giebel v. State, 28 Tex. App. 151, 12 S. W. 591; R. v. Offord, 5 Car. & Pr. 168.

35 McAllister v. State, supra.

36 Kinloch's Case, 25 How. St. Tr. 997.

37 McAllister v. State, supra; People v. Pico, 62 Cal. 50; Choice v. State, 31 Ga. 424; State v. Mowry, 37 Kan. 369, 15 Pac. 282; Com. v. Rogers, 7 Met. 500; 41 Am. Dec. 458; Willis v. People, 32 N. Y. 715; Blackburn v. State, 23 Ohio St. 146; Com. v. Sayres, 12 Phila. 553; State v. McIntosh, 39 S. C. 97, 17 S. E. 446 R. v. Townley, 3 Fost. & F. 839.

The rule has been quite extensively adopted and seems to be growing in favor, making the capacity to understand the nature, character, and consequences of the alleged criminal act a test of criminal responsibility therefor, holding that, to be effectual as a defense, insanity must be such as to render the accused unconscious of such nature, character, and consequences.[38] And a person would be criminally responsible if he had sufficient mind to be conscious of what he was doing,[39] but it is frequently regarded as necessary that the accused should not only be incapable of knowing the nature and character of the act, but also that he should be without capacity to distinguish between right and wrong with reference to it, the question being whether he had sufficient use of his reason to understand the nature and character of the act, and know that it was wrong for him to commit it.[40] As thus modified, the rule that responsibility depends upon the knowledge of right or wrong of the criminal act in question, and under it, one who is laboring under mental disease to such an extent that he does not know what he is doing, or that he is doing wrong, is not criminally responsible,[41] but he is criminally responsible if he has reason and capacity sufficient to enable him to distinguish between right and wrong, and understand the nature of his acts, and his relation to the party injured,[42] and sufficient mental power to apply that knowledge to his own acts.[43] Many of the cases put the question of knowledge of right and wrong, and that of capacity to know the nature of the act, in the alternative, holding the test of criminal responsibility to be whether the accused, at the time of committing the act in question, was laboring under such incapacity as not to know the nature and quality of the act he was doing, or, if he did know, that he did not know he was doing wrong.[44]

The right-and-wrong-with-reference-to-the-particular-act test seems to be growing in favor, and is generally satisfactory. On the retributive theory, we are justified in holding all persons who are conscious of the wrongfulness of a particular act which they commit, responsible for that act. And on the theories of prevention of crime and example to would-be criminals in the future, the argument for punishment of persons who, however disturbed may be their minds, are conscious of the difference between right and wrong as to the particular act, is still stronger. Those having charge of lunatics concede that they are subject to discipline, and the police system prevailing in lunatic asylums assumes this; and experts state that lunatics

38 State v. Gut. 13 Minn. 343, Gil. 315; Humphreys v. State, 45 Ga. 190; Hoover v. State, 161 Ind. 348, 68 N. E. 591; O'Brien v. People, 36 N. Y. 276 State v. Brandon, 53 N. C. (8 Jones, L.) 463; Revoir v. State, 82 Wis. 295, 52 N. W. 84.

39 Brown v. Com., 78 Pa. 122; State v. Swift, 57 Conn. 496, 18 Atl. 664; Com. v. Jones, 1 Leigh, 612; R. v. Townley, 3 Fost. & F. 839.

40 Guiteau's Case, 10 Fed. 161; State v. O'Neil, 51 Kan. 651, 32 Pac. 287, 24 L.R.A. 555; State v. Redemeier, 71 Mo. 173, 36 Am. Rep. 462; Mackin v. State, 59 N. J. L. 495, 36 Atl. 1040; Walker v. People, 26 Hun 67; State v. Potts, 100 N. C. 457, 6 S. E. 657; Davis, v. United States, 165 U. S. 373, 41 L. ed. 750; 17 Sup. Ct. Rep. 360; R. v. Doody, 6 Cox, C. C. 463.

41 Guiteau's Case, supra; State v. Zorn, 22 Or. 591, 30 Pac. 317; Com. v. Bezek, 168 Pa. 603, 32 Atl. 109; R. v. Arnold, 16 How. St. Tr. 695.

42 State v. West, Houst. Crim. Rep. (Del.) 371; State v. O'Neil, supra; Spencer v. State, 69 Md. 28, 13 Atl. 809; State v. Shippey, 10 Minn. 223, Gil. 178, 88 Am. Dec. 70; State v. Haywood, 61 N C. (Phill. L.) 376; Loeffner v. State, 10 Ohio St. 599; Nevling v. Com. 98 Pa. 323; State v. Bundy, 24 S. C. 439, 58 Am. Rep. 262; Stuart v. State, 1 Baxt. 178; Leache v. State, 22 Tex. App. 279, 58 Am. Rep. 638, 3 S. W. 539; M'Naghten's Case, 10 Clark & F. 200.

43 State v. Gout and State v. West, supra.

44 United States v. Young, 25 Fed. 710; People v. Coffman. 24 Cal. 230; People v. Walter, 1 Idaho 386; State v. Lawrence, 57 M. 574; State .v Klinger, 43 Mo. 127; Anderson v. State, 25 Neb. 550, 41 N. W. 357; Freeman v. People, 4 Denio 9, 47 Am. Dec. 216; Com. v. McCaulley, 16 Phila. 502; Clark v. State, 8 Tex. App. 350; Revoir v. State, supra.

are, as a rule, open to the influence of fear of punishment. They would appear to differ only in degree in this respect from other men, though, of course, mitigation of guilt and diminished responsibility may be claimed for them on account of their infirmity. But as penal law can control their outbursts, the interests of society require that over them penal law should continue to assert its control.[45]

Tests as to insanity as a defense in a criminal prosecution are to be applied with reference to the exact time of the commission of the offense,[46] though it is proper, in a prosecution of homicide by poison, to submit to the jury the question of sanity or insanity of the accused at the time when the poison was purchased, as well as at the time when it was administered.[47]

Partial Insanity or Monomania.

Partial insanity is mental unsoundness, always existing, though but occasionally manifested.[48] And monomania is a derangement of the mental faculties confined to some particular idea or object of desire or aversion;[49] it is a perversion of understanding in regard to a single object, or a small number of objects.[50] And temporary insanity consists of occasional fits of madness.[51] And recurrent insanity returning from time to time.[52] The fact that there is partial or temporary insanity does not confer criminal irresponsibility, where the party was not instigated by his madness to perpetrate the criminal act.[53] Temporary insanity is as fully recognized as a defense to crime as is permanent insanity.[54] But where an accused person is not shown to have been innocent, general evidence as to unsoundness upon any subject except that which is under investigation is incompetent.[55] Where partial insanity is relied upon as a defense, the crime charged must have been the product of the insane condition, and connected with it as effect with cause, and not the result of sane reasoning or natural motives of which the party was capable, notwithstanding his disorder.[56] It is an excuse for crime only when it deprives the party of his reason in regard to the criminal act in question.[57] To excuse crime, it must control the will, and make the commission of the act a duty of overruling necessity to the person committing it.[58] The test of responsibility is like that in other cases—whether the accused had sufficient capacity at the time of committing the act to distinguish between right and wrong with reference to it.[59] And partial insanity

45 See State v. Coleman, 27 La. Ann. 691; State v. Pratt, Houst. Crim. Rep. (Del.) 249; Smith v. State, 22 Tex. App. 317, 3 S. W. 684.

46 State v. Coleman, supra; People v. Clendennin, 91 Cal. 35, 27 Pac. 418; State v. Pratt and Smith v. State, supra.

47 Laros v. Com., 84 Pa. 200.

48 Black's Law Dict. citing Dew v. Clark, 3 Adams, Eccl. Rep. 79.

49 Owings's Case, 1 Bland, Ch. 370, 17 Am. Dec. 311; Cutler v. Zollinger, 117 Mo. 92, 22 S. W. 895.

50 Re Gannon, 2 Misc. 329, 21 N. Y. Supp. 960.

51 R. v. Richards, 1 Fost. & F. 87.

52 Smith v. State, 22 Tex. App. 316, 3 S. W. 684.

53 Bovard v. State, 30 Miss. 600; Com. v. Cressinger, 193 Pa. 326, 44 Atl. 433; State v. Harrison, 36 W. Va. 729, 15 S. E. 982, 9 Am. Crim. Rep. 626, 18 L.R.A. 224.

54 People v. Ford, 138 Cal. 140, 70 Pac. 1075.

55 Com. v. McCaulley, 16 Phila. 502.

56 Guiteau's Case, 10 Fed. 161; Parsons v. State, 81 Ala. 577, 60 Am. Rep. 193, 2 So. 854, 7 Am. Crim. Rep. 266; Stevens v. State, 31 Ind. 485, 99 Am. Dec. 634.

57 State v. Danby, Houst. Crim. Rep. (Del.) 175; Freeman v. People, 4 Denio 9, 47 Am. Dec. 216; State v. Miller, 7 Ohio N. P. 458.

58 Com. v. Mosler, 4 Pa. 264; Dejarnette v. Com. 75 Va. 867.

59 State v. Pratt, Houst. Crim. Rep. (Del.) 249; People v. Hurtado, 63 Cal. 288; State v. Nixon, 32 Kan. 205, 4 Pac. 159, 5 Am. Crim. Rep. 307; Grissom v. State, 62 Miss. 167; Giebel v. State, 28 Tex. App. 151, 12 S. W. 591; State v. Harrison, 36 W. Va. 729, 15 S. E. 982, 9 Am. Crim. Rep. 626, 18 L.R.A 224; United States v. Ridgway, 31 Fed. 144; Kinloch's Case, 25 How. St. Tr. 891.

will not excuse crime unless the accused did not have such knowledge,[60] or did not know the nature or quality of the criminal act,[61] or did not have power sufficient to apply such knowledge to his own case.[62] And to justify an acquittal, it must be proved that the act was committed during an attack of the disease, and the act itself is not evidence of such an attack.[63]

60 State v. Lawrence, 57 Me. 574; Bovard v. State, 30 Miss. 600; State v. Huting, 21 Mo. 464; People v. Taylor, 138 N. Y. 398, 34 N. E. 275; Com. v. Freeth, 5 Clark (Pa.) 455; Dejarnette v. Com. supra; State v. Harrison, supra; United States v. Holmes, 1 Cliff. 98, Fed. Cas. No. 15,382.

61 State v. Lawrence, supra; Com. v. Sayres, 12 Phila. 553; United States v. Holmes, supra.

62 Com. v. Sayres; Dejarnette v. Com. and United States v. Holmes, supra.

63 People v. Pine, 2 Barb. 566; Bellingham's Case, 1 Collinson, Lunacy, 636.

(To be continued)

CRIMINOLOGY.

The Indeterminate Sentence and the Suspended Sentence.

By the Editor.

The American Prison Association has prepared a resume of some of the papers and extracts from the discussion before the recent International Prison Association. Some of which were submitted in our September number and some of which are presented in this number. We regret that we have not space for more of these.

THE INDETERMINATE SENTENCE AND CONDITIONAL RELEASE.

By R. Gerraud, Professor of Criminal Law, Lyons, France.

Conditional release and the indeterminate sentence are designed to bring about the amendment of the prisoner if wisely administered. Just as one may desire to release a prisoner before the expiration of his sentence if the object of imprisonment has been accomplished, so we may desire to retain him in prison until that object is accomplished and he has given proof of a serious determination to amend his ways. But these two conceptions have not had the same good fortune. Conditional liberation was an idea received with enthusiasm by almost all civilized countries. It made the tour of the world. The indeterminate sentence, on the contrary, has only been tried here and there, enough to show that it is one of the means, but not the only one, to secure the reclamation of the convict.

The indeterminate sentence is a system which has a minimum and a maximum limit. Commissions made up of jurists, penitentiary officers, specialists, might, at certain periods fixed by law, examine to see if the convict might be released, but their power would be limited because they could not open the prison doors before the expiration of the minimum term nor retain the prisoners behind bolts after the expiration of the maximum period. This method has advantages and few disadvantages. It would, in the first place, do away with that scourge of the present system, the short sentence. All the criminalists of the world are agreed as to the folly of short sentences, but the more penal science disapproves them the more does repressive justice seem to pronounce them.

Second, such an indeterminate sentence would conciliate the two parties who are concerned in the best solution of the problem. We all find it repugnant to our ideas of justice that a man should be sentenced without knowing what may be the limit of that sentence. A limit fixed in advance by the code and by the judge who applies it reassures the public and safeguards the individual. It is true

that life sentences with the possibility of parden or conditional release are indeterminate sentences, but the law does not allow perpetual imprisonment except for the greatest criminals.

But those who oppose the indeterminate sentence for all criminals are usually ready to admit it for those persons who need so-called "treatment." This system has long been applied to minors. For the insane there should be special institutions. For the great mass of criminals who are defective there is greater difficulty in providing. There are many who are abnormal through various causes —neurasthenics, alcoholics, epileptics, habitual drinkers, morphine eaters, nervous people of all kinds. Various proposals have been made for such criminals: Some would have penal treatment and medical treatment applied successively; some would have special asylums where they could be both treated and punished and kept from doing injury, but whatever the plan adopted for these defective and abnormal individuals the only rational sentence would be the indeterminate.

For vagabonds and beggars the French Code provided in 1832 what is practically an indeterminate sentence. The person who is considered a danger receives a short sentence at first and after that the government assumes the right to dispose of him for a time the duration of which is not fixed. In the case of the person who is a menace to society, whose condition calls for imprisonment more as a means of safety than as a punishment, the duration of it cannot be fixed in advance by the court.

If then the absolute indeterminate sentence is incompatible with our ideas of penalty, it is adapted to the treatment of those persons who are a danger to society and for whom no prescribed period of treatment can be given.

THE INDETERMINATE SENTENCE.

By Ugo Conti, Professor of Penal Law in the University of Rome.

For misdemeanants we need special sentences or substitutes for the ordinary sentence, something tempering the execution of the penalty, like conditional liberation. For ordinary delinquents, and for those almost incorrigible there are needed the ordinary sentence, the severe sentence, the supplementary penalty. An indeterminate sentence meets neither one case nor the other.

As to children and the insane, if they commit crime, they are subject to special measures that are always "indeterminate" in character, but they cannot be applied to those persons who are fit subjects for judicial procedure. American reformatories confound "correction" and "punishment," while Italian reformatories are institutions for "correction," quite apart from establishments for "punishment." Certainly we respect and admire penal establishments in North America, but for theoretical and practical reasons we must avoid imitating them blindly. In place of the indeterminate sentence we propose the supplementary penalty, as I myself proposed to the International Prison Commission. This supplementary penalty may be added to the penalty after the expiration of sentence, with a new restriction of liberty. The law looks at crime in the abstract; the judge sees it in the person of the individual who has committed it; the administration considers it in the man who is undergoing sentence; and the same judge and the same administration officers consider the individual at the expiration of his sentence with a view to prevent him from perpetrating crime again.

Recidivism by itself does not determine the application of the

supplementary penalty, but ordinary recidivism is an aggravating circumstance, for it increases public disquiet and it justifies an increase of penalty, which may go even to perpetual punishment. Habitual recidivism renders the application of the supplementary penalty necessary.

The final authority in deciding these cases might be called a penitentiary commission. The judicial authority in the commission would be represented by the judge; the police by the chief of police in the place where the sentenc was pronouncd. The prison would be represented by the director of the establishment in which the convict had been held and he would give all the facts about the convict's physical condition, his morality, his aptitude for work, etc. This commission, after hearing the reports, written and oral, would hear the convict himself.

We have the honor to propose the following conclusions: While recognizing the merits of penitentiary institutions inspired by the idea of the indeterminate sentence, yet we cannot accept that method. In that which concerns persons under long sentences, habitual recidivists guilty of serious crimes or offenses considered by the judge or by the law as professional in character, or vagabondage, there is room for an extension of penalty at the expiration of their sentences. This may be entrusted to a penitentiary commission duly constituted, made up from the penal judicial authority, from the police and from the prison administration.

If this Commission decides that an extension of sentence is desirable, constituting a supplementary penalty, the person under consideration should be heard in his own behalf or through his counsel. If he is found deserving of such extension of penalty the Commission should pronounce an indeterminate sentence, with surveillance, or any other measure authorized by law. The measure adopted may be made more or less severe, and at the end of a year the Commission should examine the results of the decision, and annually should revise its work.

The person who has been subjected to this supplementary penalty for five years may ask for the benefit of conditional liberation, or after ten years may ask for definite release, and the Commission should give him or his counsel an opportunity to be heard.

CONDITIONAL LIBERATION.

By Dr. A. D. H. Fockema Andreae, Holland.

In Holland a prisoner must have served three-fourths of his sentence, with a minimum of three years, before he can be conditionally liberated. The number of those who can have the benefits of a law of conditional liberation is therefore limited. It is felt that it is a favor which should be extended only to the best prisoners, but really it is a method of treatment which should be applied, not to the best, but to those who on re-entering society need support and supervision to keep them from falling again into crime. The fact that we require the deciding opinion of the public minister, in addition to that of the court which rendered the sentence, is another obstacle to the success of the method of granting conditional release. This is done apparently with the idea of securing the safety of the public, but it is a mistake. Whether a man is fit to be conditionally released should be decided by those who know him personally. The public minister will judge rather from the crime committed than from the personality of the man. Again, the public minister would hardly recommend a recidivist for conditional liberation, yet for the recidi-

vist it might be the most salutary mode of treatment. We assert boldly that the public minister is incompetent to render such decisions, and his action should be eliminated in deciding from the lists presented which prisoners should be allowed conditional release. No one should be released who is not likely to lead an honest and industrious life, and the prison administration is the one to decide that. That is the case in several states in America, where it is not deemed necessary that the governor should decide as to the liberation of a convict conditionally. I recognize that this imposes a great responsibility on prison commissions and authorities, but who would venture to say that they would fail in their duty?

It is of great importance in granting provisional liberation to know the surroundings into which a man will fall, whether he will have work, whether he will act in an antisocial way. Such are some of the things that must be decided in considering whether a man shall be released. Some of these matters, in Holland, are left to the local police, though one rarely expects the police to find them work. That is left rather to the friends of the convict. Many a time this is exceedingly difficult, and one of the needs of this work is a ramification of societies for finding work and good boarding places for discharged convicts. Such associations could make the reports as to the life and behavior of the convict during release.

As to whether the time spent outside in freedom under these conditions should be considered a part of the period of detention I will not discuss. According to my ideas I think the answer should be in the affirmative. Each case should be decided by itself, with relation to age, sex, degree of education, family relations, ability to work, etc.

As to surveillance, in Holland and in most European countries, it is exercised exclusively by the police, but the police are not the best guardians for a prisoner returning to society, and such surveillance rather retards than hastens the best transition of the prisoner into the world outside. The two things necessary for the best supervision—control and moral support—are antagonistic in police supervision. The police are not created for this task. With us, as only the best prisoners are released, the police have comparatively little control to exercise over them, and their friends lend them moral support so that they do not fall back into crime. The best control over a man on parole is the feeling that one has confidence in him, and this control can best be exercised by an association whose members should seriously set themselves to reclaim released prisoners. Such control as that would best meet the end of conditional liberation. Let us see how such an association could be formed. It would be divided into local branches and the branch where the convict would find employment on release would be charged with his supervision and would report on him at least once a month to the prison administration. Such societies of guardianship have made a success in other countries.

I may make another suggestion, that indicated by Fuchs in a remarkable essay, and that is that there should be an affiliation of such societies in different countries, so that if a convict, after his release, should wish to go to some other country he might have the aid of such associations.

The duration of conditional liberation is a year, as a rule. That is sufficient. Experience shows that if there is a relapse into crime it is usually within a year. Some would make it two years. I should like to see conditional liberation applied to those sentenced for short terms also. The term of release should be for a year.

CRIMINAL LAW REFORM.

Suggestions Contained in Addresses Delivered by Prominent Members of the Bar on This Important Subject.

By Hon. F. H. Norcross, Chief Justice Supreme Court Nevada:

For centuries the world has proceeded upon the theory that the way to deal with crime was to impose severe punishment upon the offender. Long sentences, to be served out in prisons, where only hardship and cruelty were to be expected, were considered the proper thing. Terror was to be the force that was to hold crime in check. It has taken the world many centuries to make at last a beginning in experimenting upon some theory in dealing with crime, other than that of vengeance. Gradually, more and more, during the last quarter of a century, different ones intrusted with the administration of justice and the enforcement of law concluded that it might be worth while to try the experiment of injecting a little more of intelligent and well-directed humanity into the methods of dealing with offenders. When these methods were tried, usually conditions were found to improve.

By Hon. Horace E. Deemer, Chief Justice Supreme Court Iowa:

Penologists have demonstrated that it is not the severity of punishment which acts as a deterrent from crime. Certainty and celerity of the processes of the law are really the greatest discouragement to the criminal classes. When the offender has been convicted of his wrong to society, then may society justly show mercy; then should it begin an investigation as to its own responsibility for the conditions which brought about that wrong; and then should it undertake the solution of the problem of how to treat the culprit. Punishment should be made to fit the criminal, and not the crime; and he whose liberty is a menace to society should be restrained just so long as it is unsafe to the community for him to be given his freedom. Determinate sentences have been a dismal failure, and the time has arrived for that sort of punishment which commends itself to a humane, intelligent and responsible people. Practically all of the leading penologists of this country now favor the indeterminate sentence as the only reasonable and entirely just method of punishment; and the scheme is worthy of the best thought of all associations having at heart the interests of our common humanity.

By Gerard Brandon, Esq., of Natchez, Miss.:

It is in the infliction of penalties that we find the most glaring inequalities in the application of our criminal laws. Most misdemeanors are punishable with fine or imprisonment, in the alternative. Usually the fine is imposed (except in aggravated cases or where the accused is specially low in the social scale)—the defendant to stand committed till the fine and costs are paid. The offender with

more money or friends pays his fine and is released; the defendant without money or friends serves the jail sentence. Even where the offender whose means are small manages to pay his fine and costs, the hardship upon him is much greater than where the same fine is imposed upon one with greater ability to pay. Yet how seldom, in considering the degree of punishment to be inflicted and the amount of fine to be imposed, does the magistrate think of the ability of the accused to pay. The imposition of a fine of $5 on one man may be a more severe punishment than a fine of $500 on another. The only means by which an equality of punishment in cases of misdemeanors can be secured is by so altering our penal statutes as to abolish fines altogether, and to impose jail sentences only. Then all men will truly be equal in the sight of the law. . . . It is just as easy (or just as hard, if you prefer) for one man as another to go to jail; it is not just as easy for one man as another to pay a fine.

By President Taft:

There is no subject on which I feel so deeply as upon the necessity for reform in the administration of both civil and criminal law. To sum it all in one phrase, the difficulty in both is undue delay. It is not too much to say that the administration of criminal law in this country is a disgrace to our civilization, and that the prevalence of crime and fraud, which here is greatly in excess of that in European countries, is due largely to the failure of the law and its administration to bring criminals to justice.

By Emanuel M. Grossman, Esq., of St. Louis, Mo.:

Our criminal law is, of course, the great cause of popular discontent. To it, more than to any other department of the law, may be charged the growing disrespect of all law and the loss of prestige of the lawyer. It is a most deplorable fact, and to the great shame and discredit of our civilization, that in this country, at this advanced age, the statistics show more homicides in proportion to population than in all the principal countries of Europe put together. It is said that we are guilty of about nine thousand homicides annually, with only little more than one out of every one hundred avenged by legal execution. But such lax treatment of crime is not altogether to be charged to the law. The people themselves, who, through the jury, fix the standard of conduct, are largely to be held accountable. . . . But the technicalities of the criminal law are chiefly responsible for the deplorable state of public disapproval. The vicious doctrine of presumed prejudice—presumed, as in this state from errors of even insignificant triviality, even from error committed by a stenographer in the misspelling of a word, or in the omission of the article "the," though the crime with which the defendant was charged and found guilty may have been the most atrocious known to our civilization—has brought upon our law and courts such a storm of disapproval that lawyers find it futile to attempt to allay it.

By North T. Gentry, Esq., of Columbia, Mo.:

A serious defect in our Criminal Code is the abuse of the law on the subject of continuances, and on the subject of change of venue. It often happens, indeed in some counties it is the practice, for the

defendant in a criminal case who is out on bail and who is interested in dodging a trial, to procure as many continuances from the regular judge as possible, and, when his last application for a continuance is overruled, to ask for a change of venue on account of the prejudice of the judge, and thereby secure another delay. After the new judge is called in, another delay is asked for on the ground that the defendant has just then discovered that the inhabitants of the county are so prejudiced against him that he cannot have a fair and impartial trial.

By Hon. M. C. Sloss, Associate Justice Supreme Court California:

The public cannot successfully cope with the perpetrators of crime, unless it has the right to call upon them to either give a statement of the facts, or run the risk of having an unfavorable inference drawn from their failure to give it. Nor would there be danger of injustice from the adoption of this change. An innocent man could rarely, if ever, be harmed by taking the witness stand to declare his innocence. "It must not be forgotten," said a prominent New York lawyer in a recent address. "that the rule that a defendant in a criminal case cannot be compelled to incriminate himself was enacted at a time when the defendant was not allowed to be a witness in his own behalf." And he added the opinion that "nine out of ten crimes go unpunished because of the tradition, which found its birth in the Dark Ages."

Side by side with the limitation of the right of the accused to stand mute should go the absolute prohibition of testimony or confessions obtained from persons under arrest, as the result of private questioning by officers of the law. The horrors of the "third degree" are the direct result of the rule prohibiting the prosecution from calling the accused as a witness, or basing any argument upon his failure to take the witness stand in his own behalf.

(From the Advance Sheet of the Law Magazine.)

THE CASE AGAINST PATRICK.

By L. A. Wilder, Esq.

*Read before the Medico-Legal Society of New York, February meeting, 1911.

"Where the wine press is hard wrought, it yields a harsh wine that tastes of the grapestone," wrote Bacon in respect of judicature, adding that there is no worse torture than the torture of laws. That the wine press was hard wrought in one of America's most remarkable homicide cases is a conclusion that follows a perusal of the record in the case of the People of the State of New York against Albert T. Patrick. A new movement to secure Patrick's pardon is here made the occasion for a review of the case.

It will be remembered that the defendant was convicted of the murder of William M. Rice, upon the theory that the death was caused by chloroform administered by one Jones, the deceased's valet and secretary, at the suggestion of Patrick. The vital and most sharply contested point in the case was as to whether the death occurred as the result of a felonious act, and in the manner alleged; and it is purposed herein to consider that phase of the case.

Mr. Rice died on September 23, 1900, in his apartment in New York City. The only other person in the apartment at the time was Jones, who had been for some time Mr. Rice's secretary, and the only other member of the household. Shortly after the death occurred, the body was embalmed by the arterial process. This process consisted in making an incision into the brachial artery in the upper right arm, and injecting, without withdrawing the blood, a fluid of the "Falcon" brand. An autopsy was performed upon the body forty-three hours after the death occurred, by coroner's physicians, Donlin and Williams, and a chemist and toxicologist, Professor Witthaus. The report showed, among other things, that the left lung was "congested and oedematous—right lung same, and a small area of consolidate lung tissue about the size of a twenty-five-cent piece in lower lobe." The cause of death was not given.

Rice was a multi-millionaire, and after his death the defendant produced checks and assignments of money and securities purporting to have been made from Mr. Rice to himself, and also a will in which he was named as residuary legatee. There was considerable testimony tending to show that these were forgeries. At any rate, Jones and the defendant were arrested on October 4th, upon the charge of forgery. On that day Jones made a statement at police headquarters. Thereafter he made two more statements, each placing the brand of falsity upon the preceeding one. Finally, during the following January or February, he made a fourth statement, or rather a confession, which, if true, made him thrice a liar. This confession was along the line of his subsequent testimony upon which the defendant was convicted. As said by Judge O'Brien in his dissenting opinion, when the case was in the Court of Appeals,[1] "Jones was

1 182 N. Y. 184, 74 N. E. 843.

(From Advance Sheets of the Lawyers' Magazine.)

evidently testifying under a promise of immunity from the public prosecutor, and although he denied that as a witness upon the stand, no fair man can doubt, from the circumstances, that such a promise was made." Indeed, when interrogated on the witness stand as to his conflicting stories, he answered that he was in trouble and wanted to get out of his difficulty.

He testified as to an elaborate scheme involving forgeries and precautions, by which the defendant sought to acquire possession of Mr. Rice's wealth, and into which he entered with the purpose of sharing the spoils with the defendant. He testified that some time before the death there was some talk between himself and Patrick as to chloroform; that the difficulty of procuring it in New York led to the suggestion that he (Jones) have his brother in Texas send him some; and that he did so, and, when he received it, delivered it to the defendant. Jones further testified that shortly before Mr. Rice's death his Texas attorney was expected to arrive, and that the fact that his coming might thwart their plans led them to take immediate action. He said that he met the defendant upon the street Sunday afternoon, and received from him the bottle of chloroform; that the defendant instruced him how to administer it; and that he followed the instructions. When he returned to the apartment after meeting Patrick, he had been gone about forty minutes, and he found Mr. Rice lying upon his back, as he had left him. He had thought that Mr. Rice was asleep, but could not swear but that he was dead. He saturated a sponge with the chloroform, put it in a cone made out of a towel, placed the cone over the mouth and nose of Mr. Rice, and left the room, returning about thirty minutes later. Such is a brief resumé of the testimony of Jones. His brother testified that he sent chloroform, and the delivery of a package of glass sent to Jones from Texas was shown by waybills, delivery books, and testimony of express agents.

It does not appear that, in the minds of the physicians who performed the autopsy, or of others, there existed the idea that the death was, or might have been, caused by the administration of chloroform, until the suggestion came from the lips of Jones. In fact, all of the vital organs were removed from the body at the autopsy, and a transverse cut was made in each of the lungs, which were, if not casually, certainly not carefully examined, and put back for cremation with the mass of the body, and they were cremated. The other vital organs were retained for examination by chemists, and no conditions indicating the cause of death were thereby disclosed. Reference to this striking feature of the autopsy will later be made, but it is sufficient now to point out that it is by these three physicians that Jones was sought to be corroborated. This was the situation with which the district attorney's office was confronted: An autopsy had been performed; the lungs had been cremated; the other vital organs showed no indication of the cause of death; Jones then came forward with the chloroform idea; and his story meant that the chloroform had been taken into the lungs.

The coroner's physicians then indulged in research and experiments; one of them making as many as 140 experiments upon birds and animals. The facts that these physicians were salaried officials, and that they received extra compensation—one over $5,000, the other something less—for their efforts, the latter fact not being known to the jury when they found Patrick guilty, may be passed over without comment. The substance of their testimony and that of Dr. Witthaus may be broadly indicated as follows. The lungs were congested; the congestion was coextensive with the lungs; nothing but an irritant gas or vapor will cause such coextensive congestion;

and chloroform is such an irritant.

The entire testimony of these three experts stands or falls with the theory that the congestion was coextensive, for Dr. Donlin himself testified that if the lungs had not been coextensively congested it would have been his opinion that the patient had died of heart failure from lobular pneumonia. So, it is seen that the question as to the existence of coextensive congestion constituted the keystone of the case. Professor Witthaus testified that the lungs were congested. Dr. Williams testified that the congestion was coextensive and intense, and that "the condition of the lungs struck me most forcibly." Dr. Donlin testified that the lungs were congested "all over," and that their condition was the only thing in the body recognized as the cause of death. Speaking of all of the vital organs, he said: "For the purposes of death, I say they were normal, with the exception of the lungs." Dr. Williams also testified that the other organs were normal. However forcibly they were impressed by the condition of the lungs, and notwithstanding such condition was the only thing recognized as the cause of death, the fact remains that the lungs were cast aside, and the normal organs were retained for examination. So, the vital point hinges upon the accuracy of the memories of the physeicians as to the condition observed months before, which did not seriously attract their attention or excite their suspicions at the time.

On cross-examination, Dr. Donlin, who had had charge of the autopsy, was asked whether he orally announced the result. He said that it was his custom to do so, and admitted that there might have been a number of reporters present. He testified that he did not remark, after the autopsy that "the old man's time had come, and he died from old age, and that is all you can make of it." The defense produced a witness who was asked whether, in his presence and hearing, Dr. Donlin made the statement. He was not permitted to answer, the court saying that the foundation had not been properly laid for the introduction of such testimony. The idea seemed to be that in interrogating Dr. Donlin the defendant's counsel did not specify the person to whom the remark was made, although it was claimed to have been made to several persons. The court also refused to permit Dr. Donlin to be recalled. This evidence was of the most important character, and especially so in view of the circumstances attending the autopsy, to which reference has been made, and it was excluded by a ruling that scarcely attains to the questionable dignity of being based upon a technicality, Judge O'Brien says that if such a ruling were made in a police court, on a trial for sheep stealing, he is not sure that any Appellate Court would ever think of sustaining it. Surely here is a sharp wine that tastes of the grapestone.

Other phases of the case require comment, not so much because of what was disclosed at the trial as because of light thrown upon the case by disinterested men of science, or, rather, men who have become interested solely through science—who, after research and experiments undertaken from no mercenary motives, are practically unanimous in declaring that there was a grave error in respect of the expert testimony, and who, because of this, are movers in the undertaking to secure Patrick's pardon.

The defense, without great success, sought to elicit testimony to show the impossibility of anaesthetizing a sleeping person without awakening him. Subsequent investigation of this question by the President of the Medico-Legal Society, has led him to the conclusion that this is impossible. He says: "There is not an unprejudiced medical mind in the world who would believe that if a towel, made

into a cone, containing a sponge saturated with cloroform, was placed over the face of a living man who was asleep, that death would ensue if he was left alone for thirty minutes. The first struggle that the man made would dislodge and throw off the towel." Numerous experiments and declarations by eminent physicians are cited in substantiation of this conclusion.[2]

A feature of the case to which too little importance seems to have attached at the trial has taken a position of great importance in the light of subsequent investigation. This concerns the effect of embalming fluid upon the lungs. It has already been seen that all of the expert testimony was based upon the theory that the congestion was coextensive. It was also given and accepted upon the assumption that the embalming fluid did not enter the lungs. Dr. Donlin testified that it could not enter the lungs when injected into the brachial artery, although he admitted that he had investigated no authorities on the question. Professor Witthaus said that the fluid would have no effect upon the lungs, that it would affect the lungs less than other parts of the body, that it would bleach the tissues, and that it would affect the lungs some.

A committee of the highest authorities on embalming in the country have investigated this question, and they state that embalming fluid can be injected into the lungs, before rigor mortis, through the brachial artery, where the blood is not removed.[3] A committee of the Medico-Legal Society, after considering the evidence in the case, and in response to questions propounded to them by the society, reported[4] that the effect of embalming fluid of the "Falcon" brand, injected into the lungs two hours after death and before rigor mortis, would be to produce a condition "so like true congestion that a microscopical or bacteriologist examination would be required to distinguish between them." It is important in this connection to observe that Dr. Donlin, who performed the autopsy, was not permitted by the court to testify as to whether he used a microscope. The committee further says: "No reliance could be placed upon the conclusion formed or opinion expressed by a witness respecting the cause of death, as shown in the lungs, to be from chloroform or any other cause, without taking into consideration the fact of the body having been embalmed." Further: "We have no reason for changing the certificate of death as issued by Dr. Curry, and upon which the coroner permitted the cremation of Mr. Rice's body." It remains to be noted that Dr. Williams testified that the presence of chloroform was not determinable from the blood, because of the presence of embalming fluid.

There is much more, the consideration of which must be forborne because of the limitations of space. And yet it is thought that enough has been said to show that the wine press was hard wrought, apart from all knowledge imparted by those who have investigated the case subsequently to the trial. Certainly, in the light of such investigations the propriety of the conviction is a matter of serious doubt. Too much stress cannot be placed upon the varying stories recanted by Jones. And Patrick was convicted upon the

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2 24 Medico-Legal Journal, p. 32.

3 See 28 Medico-Legal Journal, p. 127. See also 25 Medico-Legal Journal, opposite p. 128, where it is shown that this same conclusion has been reached by the following eminent English surgeons and criminologists: Joseph Bell, F.R.C.S.; John Chiene, F.R.C.S.; William Turner, K.C.B., M.D., F.R.C.S.; Henry D. Littlejohn, M.D., and Sir A Conon Doyle, M.D.

4 See 24 Medico-Legal Juornal, pp. 1, 4. The following is the personnel of the committee: A. P. Grinnell, M.D., New York; Prof. H. S. Eckels, Philadelphia; Hon. W. H. Francis, Newark; Justin A. Herold. M.D.. New York; James Moran, M.D., New York; Valdemar Sillo, M.D., New York.

testimony of such a man, corroborated—by what? Testimony of medical experts that nothing but an irritant gas or vapor will cause a congestion coextensive with the lungs, and that chloroform is such an irritant. In their capacity as experts they were here resoning from effect to cause.[5] And what was the proof of the effect? Testimony of the physicians in their capacity as witnesses, who allowed the lungs to be cremated, and who retained the normal organs for examination, that the lungs were coextensively congested, and that this was the only condition recognized as the cause of death. And above all, the entire case of the experts was based upon the assumption that the embalming fluid did not enter the lungs, and this assumption is diametrically opposed to the consensus of opinion of many of the foremost physicians and embalmers of the world. To say now that there seems to be little evidence besides that of Jones, showing that death was due to other than natural causes, is not to cast reflections upon the experts, except in so far as such a statement entails the conclusion that they were mistaken. Their conclusions were circumscribed by the limitations of their knowledge, and it is by the exhaustive investigations of men of wider experience, and, it may be, more profound learning, that the apparent weakness of the case is disclosed.

Here is one of the many cases that go to justify the agitation for reform in the manner of taking advantage, in courts of justice, of the superior knowledge of scientists and other specialists. It has been frequently suggested that professional experts be excluded from the stand, and that there be appointed a board of experts, paid by the state, and chosen from among the most eminent specialists, whose duty it would be to hear the evidence touching scientific questions, and hand down its opinion, to be taken ex cathedra by the jury. That this would eliminate the unavoidable bias that attends an enlistment upon one side of a case is truly said by the advocates of this view. But the objection is interposed that such a course would constitute an invalid encroachment upon the prerogatives of the jury, to determine disputed matters of fact.

There is no magic in the words "witness" and "jury." An expert as an expert does draw conclusions from the evidence, although he is permitted to do so only where the question involved requires special knowledge not possessed by men of average intelligence.[6] He does not the less perform what has been a duty of the jury since

5 "In applying circumstantial evidence which does not go directly to the fact in issue, but to the facts from which the fact in issue is to be inferred, the jury have two duties to perform: First, by a rigid scrutiny of the evidence to ascertain the truth of the fact to which the evidence goes; and thence to infer the truth of the fact in issue This inference depends upon experience. When we have ascertained by experience that one act is uniformly or generally the cause of another, from proof of the cause we infer the effect, or from the proof of the effect we infer the cause. . . . Now, when this experience is of such a nature that it may be presumed to be within the common experience of all men of common education moving in the ordinary walks of life, there is no room for the evidence of opinion; it is for the jury to draw the inference. It is not because a man has a reputation for superior sagacity and judgment and power of reasoning, that his opinion is admissible. . . . But it is because a man's professional pursuits, his peculiar skill and knowledge in some department of science, not common to men in general, enable him to draw an inference where men of common experience . . would be left in doubt." New England Glass Co. v. Lovell, 7 Cush. 321.

6 "It is not sufficient to warrant the introduction of expert evidence, that the witness may know more of the subject of inquiry and may better comprehend and appreciate it than the jury; but to warrant its introduction, the subject of inquiry must be one relating to some trade, profession, science, or art in which persons instructed therein by study or experience may be supposed to have more skill and knowledge than jurors of average intelligence may be presumed generally to have." Ferguson v. Hubbell, N. Y. 513, 49 Am. Rep. 544. See also note 5, supra.

the dicasteries of Pericles, because he does not sit in the jury box; nor is he the more a witness because he does occupy the witness stand. His province is in fact to weigh evidence.

It is said that there is no such encroachment now because the jury is at liberty to disregard the opinions of the experts, and draw their own conclusions by reference, among other things, to the processes by which the experts arrived at their opinions. This is a perversity of reasoning. It means merely that the experts shall, to use the vernaclular, be permitted to get away with it if they can, but that interference with the functions of the jury is obviated by the reservation to them of the right to weigh the evidence, their supposed incompetency to deal with which rendered the expert opinions admissibl in the first instance.

One who sojourns in the law for long becomes so steeped in precedent that he has an antipathy for anything that bears the semblance of innovation. A due regard for precedent is good so long as the precedent is good. The conceded demerits of expert testimony deserve no championship. So, argument is given the appearance of a defense of the jury system. The jury is to determine the facts, and no interference with them shall be tolerated, it is said. The integrity of the jury system requires that, if advantage is to be taken of superior scientific knowledge, it shall be offered upon a partisan basis, in order that there shall be reserved to the jury the right to disbelieve and disregard it, upon the ultimate ground that it was offered upon that basis. And there is no invalid interference with the functions of the jury, so long as they have the right to form a disbelief in respect of that which they cannot comprehend. Such is the logic of the present situation.

The gradual process by which this evil has crept into the law accounts for the reluctance to eradicate it. "Whereas new things piece not so well"; says Bacon, concerning innovations, "but though they help with their utility, yet they trouble with their inconformity. Besides, they are like strangers; more admired and less favored. All this is true, if time stood still; which contrariwise moveth so round, that a froward retention of custom is as turbulent a thing as innovation; and they that reverence too much old times are but a scorn to the new." It is but adding one voice to the clamor of a multitude, to express the hope that the near future will work a reform, to the end that it shall not be said that the Goddess of Justice is a Titania blinded by the magic liquid of slow evolution, and unable to see the grotesque shapes of those whom she caresses.

THE CASE OF PATRICK.

MEDICO-LEGAL SOCIETY
NO. 39 BROADWAY
NEW YORK

SELECT COMMITTEE IN
THE PATRICK CASE:
CLARK BELL, L. L. D., Chairman.
PROF. H. S. ECKELS,
School of Embalming, Philadelphia.

To the Public, the Bar, the Medical and Embalming Professions and the Public Press:

The Medico-Legal Society on the 30th of November, 1910, by unanimous vote, gave as its opinion, based on the report of its two committees of scientific men, of entirely disinterested and competent members, that Albert T. Patrick was innocent of the crime touching the death of William M. Rice, for which he has been indicted, tried, convicted and sentenced to death. The one committee composed of members of the bar and medical professions, under the chairmanship of Dr. A. P. Grinnell, an eminent physician, then Vice-President of the Society; the other composed of embalmers with the exception of the Hon. William H. Francis, ex-justice of the District Court of the United States, then Second Vice-President of the Medico-Legal Society, under the chairmanship of Prof. H. S. Eckels of the School of Embalming, of Philadelphia. The members of each committee read all the evidence and proceedings on the trial of Albert T. Patrick used on the appeal to the Court of Appeals, of the State of New York, from the record of the case on appeal, both committees conducting experiments and each declaring that the death of William M. Rice was due to natural causes, was not due to poisoning by chloroform, and that the evidence of the valet Jones was false, incredible and contrary to scientific knowledge, and each finding that death by chloroform could not have been produced in the manner described by the witness Jones on the trial before the jury by which Patrick was convicted. The Committee of Embalmers conducted a public demonstration on the 9th day of August, 1906, at the City of New York, by embalming the body of a dead man about the age and build of William M. Rice by the right brachial artery in the same way and manner that the body of Rice was shown on the trial to have been embalmed under the supervision of Prof. H. S. Eckels, Chairman of the Committee, and demonstrated that the embalming fluid did enter the lungs as viewed by a large number of embalmers and others.

The conviction of Patrick, as is known to all familiar with the evidence in the case, was based on the assumption of the State that the embalming fluid did not and could not enter the lungs of Rice. The Recorder who tried the case, the jury who found the verdict, and the judges of the Court of Appeals all believed that the embalming fluid did not and could not enter the lungs of Rice. By reason of the demonstration of the Committee of Embalmers above mentioned, the innocence of Patrick thus became a demonstrated scientific fact and his innocence of the crime for which he had been tried and convicted was demonstrated beyond doubt, question or cavil by a purely scientific demonstration of a committee of the highest scientific authority in the land.

Further medical testimony was introduced at the trial, by way of corroborating Jones' tale of the alleged murder, to prove that death by chloroform could be brought about without disturbing a cone saturated with the anaesthetic and placed over the face of the sleeping man, and without leaving an odor perceptible thirty minutes later. Medical men know that chloroform used in the manner described by Jones would arouse a sleeping man and produce coughing and muscular action which would upset a cone so placed, and that the odor would be powerful enough to last for hours. There was not a scintilla of evidence as to the presence of the odor. Dr. Curry would have detected it, and the embalmer could not have failed to discover and recognize it. It is, therefore, plain that chloroform was not used in the death of Rice, and that Jones' story was a fabrication.

Professor Larkin's published views in the New York Herald of January 24, 1910, corroborated by Dr. O'Hanlon, in contrasting the congestion produced by the poisoning by chloroform in the case of Ferrari, shows conclusively that the Medico-Legal evidence on which Patrick was convicted was faulty and of no value. Dr. Larkin states, "In the testimony in the Patrick trial it was declared that in cases of death by chloroform, co-extensive congestion of the lungs existed." Dr. Larkin asserts that the testimony in the Patrick case is absolutely untrue and contrary to the facts disclosed by the condition of the lungs in the Ferrari case. Dr. Larkin, in the case of Ferrari's lungs, where death was due from chloroform poisoning, said that large patches were found free from any congestion.

"I have always held that the testimony offered at that trial was the poorest kind of medico-legal evidence," declared Dr. Larkin. "It was a disgrace to the medical profession and it was founded on a theory that doesn't hold water for a minute.

"That this is true is proved by the present case, in which death clearly resulted from chloroform. Here we found none of the co-extensive congestion which was found in the lungs of Mr. Rice. Parts of the lungs, and large parts, were normal.

"Mr. Rice's body had been embalmed, and embalming causes congestion. Congestion may result from other causes also, and it is impossible to determine definitey just what cause is responsible for many cases of congestion of the lungs.

"I have always held that the conviction on the testimony offered concerning this phase of the case was an outrage, and the best experts will deny that the evidence was correct."

Dr. Larkin explained that a cause for differences of opinion concerning the effects of the anaesthetic on the lungs might be found in the fact that few cases of chloroform deaths are the subject of post-mortem examinations. He declared, however, that men learned in their profession have long agreed that the testimony in the Patrick case was wrong. Medical men know that the odor of chloroform used in the manner described by Jones would have been powerful and strong for hours after it had been used.

The Medico-Legal Society named a committee on November 30 last, composed of Clark Bell, Esq., L. L. D., ex-President of the Medico-Legal Society, as Chairman; Professor H. S. Eckels, of Philadelphia; Hon. J. Joseph Kindred, M. D., of Astoria, Long Island, Member of Congress-Elect from the Queens District of this city, and instructed that committee to lay the matter before the Executive of the State of New York and ask for a modification of the commutation of the sentence of Albert T. Patrick, now serving a life sentence, by terminating that sentence at an early date and restoring him to liberty immediately as an innocent man suffering for a crime that he had never committed. Application will be made to the present Governor pursuant to such instruction of the Society, by the Committee. The Society also authorized and directed the Committee to appeal to the bar, the medical profession and the public press for co-operation in securing the freedom and enlargement of Mr. Patrick under which the Committee has decided to make this appeal. The Society, therefore, calls upon you to consider the questions it has investigated so carefully, and to use your influence along with the Society in its laudable purpose. Understanding that members of the professions have little time to read long articles and reports, the Select Committee goes no further than to send you this appeal, and the enclosed petition for your signature, but will, if any of the profession so desire, furnish copies of the reports and of the contributions of articles by Professor Larkin, Dr. Austin Flint, Mr. Julius Chambers, or reprints from the Medico-Legal Journal.

Very respectfully,

CLARK BELL, Chairman.

Please have the enclosed petition signed speedily by as many names as possible, copies forwarded to others and returned to Clark Bell, Esq., Chairman of the Committee and attorney for the Medico-Legal Society, No. 39 Broadway, New York City.

To His Excellency, Hon. John A. Dix,

Governor of the State of New York.

The undersigned members of the Medical Profession, desiring to co-operate with the Medico-Legal Society in response to its appeal to secure the liberation and freedom of Albert T. Patrick, now suffering a life sentence under conviction on the charge of the murder of William M. Rice, declare that the Medico-Legal evidence upon which Patrick was convicted, especially as to the action of the embalming fluid in the embalming process by the right brachial artery in and by which the body of Rice was embalmed, was entirely unreliable, unscientific, and cannot and should not be recognized by medical science. That Albert T. Patrick is now serving a life sentence in prison for an alleged crime as to the death of William M. Rice, that he did not commit and of which he is innocent and which has been commuted to a life sentence, respectfully petition that that commutation be modified so as to terminate the same at an early date and that Albert T. Patrick be restored to liberty as an innocent man.

PETITION

TO SET FREE

ALBERT T. PATRICK

To His Excellency

HON. JOHN A. DIX,

Governor of the State of New York.

FEBRUARY, 1911

The undersigned members of the Legal, Medical and Embalming professions and the press and public, desiring to co-operate with the Medico-Legal Society, in response to its appeal to secure the liberation and freedom of Albert T. Patrick, now suffering a life sentence under conviction on the charge of the murder of William M. Rice, declare that the Medico-Legal evidence upon which Patrick was convicted, especially as to the action of the embalming fluid in the embalming process by the right Brachial artery, in and by which the body of Rice was embalmed, was entirely unreliable, unscientific, and cannot and should not be recognized by medical science. That Albert T. Patrick is now serving a life sentence in prison for an alleged crime as to the death of William M. Rice, that he did not commit and of which he is innocent and which has been commuted to a life sentence.

We respectfully apply for the exercise by you of your constitutional power of unconditional commutation of the sentence of Albert T. Patrick, to the punishment inflicted upon him as a convenient means of rectifying a miscarriage of justice and terminating an illegal imprisonment.

NAME *PROFESSION* *RESIDENCE*

The undersigned respectfully unite in this petition to the Governor of the state.

NAME *PROFESSION OR BUSINESS*

The above Petition was sent out to Embalmers, Physicians and others with the request to have the same signed speedily by as many names as possible, copies forwarded to others and returned to Clark Bell, Esq., Chairman, of the Committee, and attorney for the Medico-Legal Society, No. 39 Broadway, New York City.

EDITORIAL.

THE INFLUENCE OF THE PRESS ON CRIME.

The *Evening Post,* in discussing this phase of *Criminology,* recognizes the force and fact that such an opinion has prevailed in some quarters and localities. The danger of yielding to this too far is raised or presented and taught as follows:

In an age like ours, where so many newspapers delight to exploit the sensational, it is comforting to be informed that the influence of the press upon crime is probably not so deadly as is commonly thought. The Paris "Revue," which has been printing a series of articles on the subject, contains the following opinion delivered by M. Flourens, ancien ministre:

I do not believe . . that the press exerts a very appreciable effect upon the growth of crime in France, even among young people and adolescents, that is to say, at the age when this kind of excitation could have the most pernicious influence!

Crimes for glory, he goes on to say, are rare, and except with persons of defective brains—and, in this case, they respond to the spurs of their illness and not to those of the press and might be neglected in the make-up of statistics. Crime, according to M. Flourens, is due rather to the general lack of morality and religion with which the times are afflicted.

The evil lies in education. We talk of an irreligious school, and rightly. Equally we might talk of the unmoral family.

M. Flourens is speaking of the influence of the French press of his era.

The testimony of the contemporaries of Flourens, who held such relations to the English press and people as he did to France and her people, would, it seems to me, have concurred in this view in the main.

The environment, the atmosphere of the greater countries in Europe held the press in some considerable bounds and restraint What we might call the license of the press in our country has been along similar lines.

It has here been rather not as to causing crime as an evil in the abstract, but its excesses have been assaults upon individual rights, that might lead to or incite breaches of the peace and to acts of violence incited by the press, and not crime in the abstract.

The press that incites one class to violence against another class, such as results in strikes and violence and seditious acts against the Government, must not be considered, as there is little of this, and it always or usually convicts itself.

The public conscience is a safeguard against such an evil as

a real danger, because neither the laws nor the people would sustain it.

The safer view of the influence of the press on the volume of crime, and as a cause of it, is no doubt against such an accusation.

Individual, erratic, and irresponsible journals may, no doubt, do incide to crime, but they are and must in the nature of things be ephemeral. No state will permit such an evil to be general or permanent, and the people would not continue or support it. It cannot be a public danger.

THE CASE OF ROBIN.

The result of this case is full of light, and pregnant with assurance of what may inspire hope and confidence in the strength and permanence of our judicial system, and in the righteous and just administration of justice in our criminal courts.

1. It demonstrates that insanity is a question of fact, to be tried and determined by the verdict of a jury, the same as any other question of fact in an action.

2. That juries pay little heed to the opinions of medical experts in determining this question in such cases.

The jury found Robin to be sane, notwithstanding the opinions of alienists of distinction to the contrary, almost unanimously, as well those called by the defendant as the State. This jury gave no heed to the opinions of medical experts. They ignored the evidence of these opinions, and they found that he was sane, responsible for his acts, competent to plead, and the court sustained this verdict, which judicially and legally settled the law in this case.

Robin's plea of guilty shows the action as the wise and sane action of a sane man.

The majesty and the supremacy of the law is sustained.

He has displayed, as the *New York Times* clearly puts it, "wonderful clearness of mind in doing what he could to make the penalty as light as possible."

The men who plundered the Robin institutions are now to be reckoned with. Robin may help the State and the cause of justice by the light he can throw on this phase of the case, which will be the interesting feature of the trials of the participants in the divisions of the plunder after his arrest, in which, as it now appears, he took no part.

In the Molineaux case, that jury openly declared on the trial before their verdict, unanimously, that they entirely disregarded the testimony and opinion of the expert witnesses.

As the law now stands, neither courts nor jurors attach much, if any, value to the opinions of medical expert witnesses.

The abler members of the Bar know that it is of little, if any, value with either court or jury.

JUDICIAL CRITICISM OF IMPROPER METHODS OF OBTAINING EVIDENCE TO SECURE CONVICTIONS IN PENALTY CASES.

Judge Holt, of the United States District Court, in the City of New York, at the February Term, severely scored the methods employed by the Government agents in securing evidence in the so-called "pure food" cases in the cases against the old and long established drug firm of Peck & Velson, of 9 Gold street, where criminal informations had been lodged against them charging that in October, 1909, they had shipped from New York to the Coffin, Redding Company, San Francisco, senna and belladonna leaves and ground turmeric, which the Government claimed had been adulterated.

Assistant United States Attorney Abel I. Smith told the Court that the drugs in question had been purchased by Government agents for the purpose of securing legal evidence that the law was being violated. Judge Holt replied that he didn't like such methods in getting evidence, and added:

"This method of getting evidence in cases of this kind is a new departure and is resorted to by inspectors to show their efficiency through the medium of sham orders under cover of interstate commerce. These things were bought for the purpose of getting up a criminal prosecution instead of legitimate business purposes. This is following out the ideas of modern Federal legislation and taking the proper relief from the States. The same sort of methods are resorted to the immigration service and I will have none of it. In this case sentence is suspended."

Judge Holt is entitled to the thanks of the Bar and the praise and support of the Bench.

Similar methods have been resorted to in criminal cases in this city for years, and it is a good omen to have the judges notice and condemn it.

It was a favorite method employed in the cases when the informers were allowed to share in the fines and penalties recovered.

Anthony Comstock brought some women before Judge Gil-

dersleeve years ago when he was sitting in a criminal court, whom he had arrested for an indecent exposure of their persons at a public exposition, a clear violation of the law, and it appeared that he had hired and paid them to do this so that he could make the charge, and then arrested them for the violation of the law that he had arranged and intentionally.

Judge Gildersleeve discharged the girls and scored Mr. Comstock in much stronger language than Judge Holt used.

In the proceedings instituted by the County Medical Society, in charge of an attorney who shared in the penalties, similar methods were employed by the lawyers who conducted these cases, who employed women and paid them for going to those who treated the sick, and instructed to falsely represent themselves to be sick, when they were not, and paid to induce the physicians, and solicit for their treatment, and the arrests of the defendants were made on the affidavits of the women who swore to the treatment and paid the fee, and convictions based on such evidence were obtained in many cases.

In one that came under the notice of the writer, the witnesses testified that they were hired and paid to do this and instructed by the attorney who hired them and paid them to feign the illness, and the attorney in charge of the case unblushingly admitted to the court that he had employed them for the purpose of obtaining in that way the evidence on which he relied to convict.

Similar methods, it is reliably stated, have been resorted to in New Jersey to secure evidence as to the sale of indecent pictures. Reputable persons were instructed and hired to purchase these pictures, usually post-cards, so as to lay the foundation of their complaint on this hired evidence by witnesses who, under such circumstances, played the part of spy, informer and witness. It is to be hoped that the action of Judge Holt will be followed by other judges.

SHAKESPEARE AS AN AUTHORITY AND TEACHER ON INSANITY.

The keen and accurate knowledge of the greatest of the dramatists of his era on the questions involving the diseases of the mind in the portrayal of the mental characteristics of the character he portrays in the strongest and most interesting of the greatest of his creations, throws a splendid light upon the ability and the personality of the Immortal Bard.

Perhaps none of his conceptions evince this more than his manner and treatment of Ophelia in that marvelous play of which

she forms the central figure, and the study of the problems involved in his Hamlet, the "Melancholy Dane."

No one of our writers of to-day is more competent to treat on the enigmas that have been recognized in the past by our more thoughtful students than has Henry Frank; certainly none who have treated them in a more masterful way than has this gifted and prolific writer in his recent work, "The Tragedy of Hamlet." (Sherman, French & Co., Boston.)

It will better elucidate the rare ability and gifts of this versatile writer than a few extracts from that work on the character of Ophelia.

Mr. Frank does not speak as if he was disecting the character of a fanciful creation.

His work is that of a living, breathing surgeon cutting the actual dead body of a real woman from whom the spirit had just taken its leave. His whole vision is realistic, natural, human and applicable to us and our present life; emotions, passions, feelings and the actualities that confront and environ the men and women of the human race to-day.

It is true to the life of all of us, and his knife is keenly and beautifully and delicately sharp, and he wields it with a charm of touch and skill that recalls that wondrously gifted professor formerly at the head of the great American Surgeons at Hobart, when the writer was a boy, whom he had captivated and entranced, and who on showing him the splendid temper and beauty of his instruments that he handled with an indescribable tenderness and gentleness and spoke of its excellence as "the sweetest cutting knife he had ever used."

Mr. Frank is just such an artist as the surgeon of Hobart College, Professor Potter was, and he handles his theme with the same superior subtle and splendid skill. I quote him on the theme "Melancholia":

> The causes of human madness are very numerous, and are usually divided into pathological and psychological. Not that these two classifications are to be considered distinct, for they usually conjoin, but that the origin of individual cases can be traced directly either to some physical disease, or to some mental or psychological condition. One can easily see that Lear's madness and that of Ophelia, originating in a psychological cause, rapidly develop into pathological stages of an extreme character. On the contrary, if we are to construe Hamlet and Macbeth as insane, we must conclude that their states of madness, of whatever degree they may be, are almost purely psychological. Hence their intellect and reason are but little affected, for no palpable disease of the brain manifests itself. But in the case of both Ophelia and Lear, although extreme grief in both characters is the immediate cause of their madness, their brains give way and become so utterly diseased that death directly folows.
>
> Dr. D. Hack Tuke says: "The mental symptoms of acquired insanity have been classified from the time of Pinel as mania, melancholia and dementia, according as exaltation or depression of feeling, or weakness of intellect, pressure itself most prominently in a given case. To these

have been added delusional insanity, spoken of by certain authors as monomonia. However, all such when finally alalyzed are reducible to the primitive melancholia, mania and dementia."

That is, the states known as melancholia and mania, arise from the intense alterations of the feelings caused by some exciting stimulus, and are manifested in either extreme depression or extraordinary exaltation. In mania—that is, in the state of insanity known as that of the maniac—the subject raves and conceives himself in a condition of indescribable misery brought on by imaginary, but to him most real and overpowering, causes. His brain is excited to its utmost tension, he suffers with almost constant sleeplessness, and his nervous stability completely shattered.

But the insanity of the hypochondriac or the melancholiac, manifests itself in symptoms precisely opposite to these. The subject then experiences most profound and suffocating feeling of depression, and both physical and mental gloom; he loses all interest in the ordinary affairs of life, disregards his friends and former fellows, concentrates his feelings and thoughts exclusively upon himself, and delights in the torture which the aggravation of his emotions of misery create within him.

The state of insanity known as dementia is more directly the result of intellectual abberration, and evidences its symptoms in confusion and irregularity of thought, in the utter dethronement of the rational faculties, and the subject "becomes indifferent to social considerations, apathetical and neglectful of the personal and family duties, evinces dislike and suspicion of friends and relatives, and may betake himself to excess in alcoholic stimulants and other forms of dissipation." The authorities all agree, however, that "intelluctial insanity never exists without moral perversion."

It is quite manifest, if we are to accept this classification as authoritive and correct, that the class of the insane under which Ophelia's condition would fall, must be that of melancholia. Hers was distinctly and emphatically an abberation of emotions; her mental dethronement was the direct undisguised effect of her emotional misery brought on by domestic and social causes that were sufficient easily to overcome a nature as delicate, sympathetic and tender as was hers.

Her heart, as that of Lear, literally broke, and with it cracked her brain. When we recall that she was a mere child, probably yet in "teens," who for all we are told had never but one lover and one whom she regarded as "the glass of fashion and the mould of form"; and then remember that this lover not only proved faithless and cruel to her, but became at last the avowed and indifferent murderer of her father; we discover cause enough to shatter the mental equilibrium of one much sturdier, and built on coarser and far more material lines than she.

She is so much in love with Hamlet, although in the play she never openly confesses her love, that when he rebukes and casts her off, she can only sink under the blow, bemoaning her fate, but never chiding or accusing him. "O woe is me to have seen what I have seen; to see what I see," she mournfully wails, fainting at the evidence of his mind distraught, as she thinks, yet regarding him so much a god, she dare not drag him from his lofty pedestal and reprimand him at her feet. She believes utterly in his nobility of mind, his superior morals, his exalted purpose. He is indeed her god—her ideal. Nothing that he could do would destroy her admiration; were he indeed a god she could not more adore him; were he less than man she could not in imagination lift him to a higher state of honorable manhood than that, in which she holds him. Hers is a love unfathomable, whose depths the plummet-line of no intellect could ever sound, and which the shores of the human heart could not confine.

When then this love is unrequitted; when this god of all her devotions and confessions, this paragon of perfections, this ideal of manli-

ness and magnanimity, falls from his lofty throne besmeared with the blood of her slain parent; it is nothing marvellous that a heart, which could contain no more misery in its slender calice, should break (?), and with it the brain, whose kindly thoughts could worship only him. She could not hate him; her thoughts were too o'ermastering. She could not chide him; for her tongue had learned naught but the lispings of childish adoration; she could not suspect him; for love is blind, and sees in sin but human frailty, in cruelty but passing passion. For that great sin—the murdering of her father—she could but pity, pity him—forever crying, "O what a noble mind is here o'erthrown," whose "most sovereign reason, like sweet bells jangled out of tune and harsh" reveal "his blown youth blasted with ecstacy!"

She could pity—and pitying, forgive; and forgiving, die for love's sake on his brave but blighted breast. She is the efflorescent fullness and embodiment of love, revealing its innate weakness and degeneracy, no less than its beauty and ennoblement. Love is to her the world, and all that it contains; and, when love is blasted then the world bursts like a pricked bubble, and dissolves in misty vapor.

That such love is a disease is too well evinced in the persistent tendency to sadness and melancholy such erotic states invariably generate. If the love of youth were a thoroughly healthful condition it would not easily incline its victims to insanity and suicide, but would rather quicken the brain, and solidify instead of dissipate the tissues of the nerves. I believe the pathology of love is yet to be learned by the wise of the race, and they shall then know that all that passes as love, especially in early youth, is far from being beneficial to its possessor, but is rather the source of frequent disease and deterioration.

"Bitter indeed; for sad experience shows,
That love repulsed exceeds all other woes.
From his sad brow the wonted cheer is fled,
Low on his breast declines his drooping head;
Nor can he find, while grief each sense o'erbears,
Voice for his plaint, or moisture for his tears.
Impatient Sorrow seeks its way to force,
But with too eager haste retards its course.
Each thought augments his wounds deep-rankling smart,
And sudden coldness freezes 'round his heart;
While, miserable fate! the godlike light
Of reason sinks, eclipsed in endless night."

All tendencies to melancholy should be studiously and vigorously avoided. Melancholy is in every sense of the word a degenerative disposition. If it is not in itself a disease it is a direct cause of pathological conditions, which have caused insufferable misery to the race. Melancholy is either itself actual insanity or the sure road that leads to it. The victim of melancholia unredeemed is sure finally to enter the state of mental vacuity and emotionable abberation, from which final reclamation may be impossible. Therefore when love exhibits this disposition it may be recognized as an initial disease whose future is fraught with danger and evil prophecy. It is, however, a most delicate and difficult disease to conquer. No medicine of "gross earth" can minister to it; no physical force, or cold intellectual discourse can affect it. Al of Laertes' kindly advise or Polonius' bitter rebuke could molify the passion in the tender heart of Ophelia. Under the spell of Hamlet she was irresponsible; his eye was like a radiant star that held her captive in its glorious orbit, or like a basalisk's which enchanted, hypnotized and slew her.

If we knew enough of the laws of the mind and the heart we might perhaps be justified in concluding that whenever love engenders in the human breast the emotions of intense sadness and approaching melancholy it may be nature's warning—the cry of the faithful guide that the

precipice is just beyond where death lurks with inordinate desire. It would be natural to suppose that where love engenders cherfulness and hope, buoyancy and energy, it is a healthful passion, and will lead the possessor on to happiness and success; but that where it is big with gloom, despair and despondency, it casts ahead its shadows that prophesy a fate fraught with woe and inviting to self-slaughter.

From this it is but logical to conclude that love is not only a purely psychological state, which always exhibits its effects in the physiological condition of man, but that it originates in a pure subjective stratum of the mind, whose laws we know are curious and arcane.

In the subjective realm of the mind are contained, as in a reservoir, all the impressions of past lives, and the current exercises, both of mind and body, which at times are unexpectedly released and leap forth with surprising consequence. There are times when the normal mind gives way, and the subjective or sub-normal mind gaining the sovereignty sways the entire organism in a manner wholly foreign to its ordinary character. There are what are known as secondary personalities in each of us, which have been generated and developed, along with our ordinary conscious personalities, out of materials of which we are little if at all aware, and which when they become manifest are a total surprise and frequently a complete contradiction to our known personalities. Psychologicaly, Insanity is now defined as a state, in which the sub-normal mind has gained the ascendancy, and the normal mind been partially or totally suppressed.

The subjective or sub-normal mind is without the power of conscious reason or self-control. It operates much like a machine, following the course of whatever impressions or suggestions may be made to play upon it. At such times the mind is incapable of distinguishing between the actual and the apparent, between shadow and substance, between dream and thought. It operates as it does in our nightly dreams, when we enter into a wholly foreign world of experience, and see and feel things of which in our wakeful states we are incapable.

LINCOLN AND WASHINGTON.

Unusual attention was given to the memory of these illustrious names at the holidays which have been created by a grateful people to them both.

Born in the some month, they become colossal memorial statues, marking the eighteenth and nineteenth centuries of the Christian era as beacons and everlasting testimonials of the rise, progress and the stately steps by which we may regard and measure the advance of the human race, in aiding, developing and extending the principles of freedom and liberty which underlie the corner-stone of the American Nation.

If we make the War of the Revolution of 1776, and the War of the Rebellion about 1866, or place the statues 90 years apart or at 1956, before we could prepare for the third statue to be erected, or not quite a half a century from now, for the epoch or era for a memorial of the twentieth century, at which time the

population of our country will have more than doubled, and will probably reach upward of 300 millions of souls.

We are now regarding Washington at a distance of about 135 years, and Lincoln at only about 45 years, short vistas of each.

To my mind the fame and glory of Lincoln's memory is expanding and rising higher and the statue of Washington seems to have slightly receded, and the summits of each are nearer, and that sooner than we had supposed they will stand like the planets, to our vision on the same plane as do the fixed stars.

Lincoln rises in our estimation faster than Washington recedes as time passes.

Lincoln will be taken all in all as the grandest figure, the noblest nature and the highest type and exemplar for the youth of the world to study, and as the realization of our loftiest conception of the men of all time in the present era, and this does not at all detract from our original conception of Washington.

He stands where he always stood in our admiration, gratitude and our dreams of greatness, and will ever hold this place, but there is a greatness of soul and a profound tenderness, a trust, a confidence and unswerving faith that Lincoln had in the people in his heart that Washington did not feel, nor know the first letters of the alphabet of, and Lincoln's influence on our future and in the uplifting of the soul and the hearts of the plain people, as he loved to call them, and their unborn children, which is immeasurable and will be eternal and remain forever.

I have read Washington's farewell address from my boyhood with profound emotion, but it has not stirred me nor thrilled me like Lincoln's words at Gettysburg.

HON. WILLIAM PRYOR LETCHWORTH.

Honorary Member of the Medico-Legal Society.

Mr. Letchworth died December 1, 1910, on his estate at Portageville, at the age of 87. He was not ill. He ate with his usual relish, walked into another room to lie down. Shortly after, he died peacefully without pain or a struggle. His great heart had ceased to beat.

He was born in Brownvile, Jefferson County, in 1825. He engaged in business in Buffalo, amassed a comfortable fortune and retired from business in 1869, devoting his life to philanthropic and charitable work.

In 1873 he was appointed on the State Board of Charities, was made Vice-President in 1874 and in 1874 elected President. He served on this Board twenty-two years, and as President ten years.

He became an active member in the Medico-Legal Society in the seventies and has been one of the most influential, active and energetic members and was made an Honorary Member some years since. He celebrated his 87th birthday May 27, 1910. He presided at the National Conference of Charities and Correction at St. Louis in 1884, and was an ardent and active member at its organization ten years before in New York City.

He was President of the Fine Arts Academy of Buffalo.

He was a splendid example of the highest type of the American gentleman who devoted his life to useful benevolence and philanthropy and his life and the monument he created at Glen Iris and gave to the State will be an imperishable record of his long and useful life.

TRANSACTIONS.

Session of January 27, 1911.

The annual dinner of the Medico-Legal Society was given at the Hotel Chelsea, West Twenty-third street, New York City, on Friday evening last. The retiring President, Gen. Stillman F. Kneeland, in the chair, and a large company, seated at separate tables.

Gen. Stillman F. Kneeland, who has served two years as President of the Society, made his retiring address, at the close of the dinner after the removal of the cloth. Dr. J. Jos. Kindred, of Astoria, who was nominated for the presidency last November, and made a very interesting speech in acceptance of the nomination, had later in the fall and early winter, resigned from the Select Committee on the case of Albert T. Patrick, which had been accepted and he had gone with his family to California for the winter, for the benefit of his health, claiming that it would be impossible for him to give his personal attention to the exacting duties of the office of President of the Society during the winter months, as he had been elected to Congress from the Queens and New York district, and took his seat on March 4 next, compelling him to decline the honor. The Executive Committee had accepted this resignation January 27, 1911, with regret.

Judge Wm. H. Francis, formerly U. S. District Judge of the Territory of Dakota, who had been elected First Vice-President of the Society was introduced by General Kneeland, as acting President and his successor to head the list of the installation of officers and the President called upon Mr. Clark Bell, ex-President of the Society, to take charge of the installation of the incoming executive.

Mr. Bell spoke in high praise of the long continued service of Judge Francis in the more active work and duties of the Medico-Legal Society for many years last past. Commencing with his judicial career in the far West, where he had been serving in the United States District Court in that great district, which then embraced both of the Dakotas, and over which he had such vast distances to travel in the performance of his judicial duties. He congratulated the Society on its good fortune in securing the services of so eminent a judicial officer for the work that was before it.

Judge Francis, in acknowledging his thanks for the high honor conferred upon him, expressed his regret that the distinction had not fallen upon a medical man, and regretted the loss to the Society in that respect. He was requested by ex-President Kneeland to act as the installing officer at this session for the officers elected for the current year, and to proceed with his opening address as presiding officer.

Judge Francis made an eloquent address as to the importance, the dignity and the usefulness of the Medico-Legal Society in its past work, which he had watched with great interest for so many years, in its labors for the advancement of medical jurisprudence, not only on this continent but throughout the civilized world. He

reviewed and paid an eloquent eulogy to the labors of his predecessor, Mr. Clark Bell, who had made the address to him on installation and of whose work he spoke in the highest praise, extending for more than a quarter of a century in the past.

He excused himself from making a more extended inaugural, by claiming that he had not been expecting to be called on to do so.

He then proceeded with the discharge of his duties as installing officer, eulogizing the late Albert Bach, ex-President of the Medico-Legal Society, who had so frequently acted as such in the past, and spoke in the highest terms of Dr. J. Mount Bleyer, who had been named as Vice-President of the Society for the State of New York, to succeed Dr. J. Jos. Kindred in that important position, and whom he had hoped to see occupy a still more important position. He called the attention of the Society to its recent election of Villa Faulkner Page, a woman of signal ability and merit, to succeed himself as Second Vice-President, and installed Mr. Clark Bell as Secretary and Treasurer, making a graceful, eloquent and pointed allusion to the work that officer had been identified with in its past history and usefulness.

All the officers elected were duly installed.

The list of officers of the various officers' sections, psychological and medico-legal, were then duly elected as recommended by the Secretary, and ordered to be published in the Medico-Legal Journal.

The minutes of the last meeting of December 21, 1910, were duly read and approved.

Upon the report of the Executive Committee, Mrs. Benjamin N. Scudder, 16 Manhattan avenue, was duly elected an active member.

The Chairman of the Select Committee as to the commutation of the sentence of Albert T. Patrick, reported progress and stated that the Hon. Horace White, whose time expired at the end of December, 1910, had declined to take up and consider the case, alleging that he had not time enough to give it the proper consideration, and was unwilling to take it up because he felt that he could not give it the proper attention owing to the shortness of his time; that the Committee was preparing to perfect its plans to lay the case before John A. Dix, Governor, and was proceeding with its work under the direction of the Society, given at the December meeting.

The report of the Committee was accepted and it was unanimously ordered that the Select Committee proceed with its work and obtain petitions to be signed by the embalming profession, the medical profession and to make an appeal to the bar, the press and the public for aid in its work to defray the expenses thereof, so as to not make it so burdensome to the Society's treasury.

The Secretary was then called upon to make his report and made a brief summary of the matters which had engaged the attention of the Society during 1910. He asked leave to submit a detailed report of that work, which was unanimously grantd. He alluded to the large number of members who had died during the past year and was requested to bring suitable notice of it to the Society at its February meeting, owing to the lateness of the hour. He had submitted the title of the papers presented by Judge A. J. Dittenhoefer, Dr. J. Mount Bleyer, Dr. T. D. Crothers, of Hartford, and others, which were ready to be presented to the Society, but which the lateness of the hour prevented at this session, but which could come up at the February meeting. It was moved and carried that the various reports of the officers be laid over for want of time to consider them at this meeting, which was unanimously carried.

The Chair thereupon requested Mr. Bell to take charge of the post prandial part of the work and to act as toastmaster.

Mr. Bell then consented and presented as speakers, Dr. T. D. Crothers, of Hartford, who spoke for the medical profession.

Mrs. Mary E. Chapin, of Boston, who made a very brilliant address. Mrs. Caroline Foote Marsh was introduced, and made a very strong and eloquent appeal. Miss Cora Stockton Hummel was then introduced and gave a recitation. She electrified the Society by a very remarkable exhibition of talent of a very high order, giving imitations of leading actresses on the American stage. Miss Hummel is a very superior artist, has wonderful force and power in delineation, and if she would consent to go on the stage would make her mark in tragedy especially.

Mr. Bell paid a high tribute to the Hon. Mr. W. S. Fielding, Canadian Minister of Finance, who has been recently engaged at Washington on the treaty just completed to bring the United States and the Dominion of Canada into more amicable and equitable financal relations, respecting the products of both countries, and the remarkable success which had attended Mr. Fielding's work, who has been for many years an active member of the Medico-Legal Society. and asked a friendly expression of the Society in favor of the efforts to which this gentleman and the officers of our Government had been addressing themselves for the past few weeks in Washington, which action was unanimously favored by the Society. Mr. Brian Hughes was then called upon to speak and was unusually felicitious and happy in his remarks.

Dr. Elmer Lee spoke with his usual earnestness and ability.

The Society sat very late and did not adjourn until midnight.

WM. H. FRANCIS, President,
CLARK BELL, Secretary.

EXTRACT FROM THE MINUTES OF THE MEDICO LEGAL SOCIETY OF JANUARY 27, 1911.

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PSYCHOLOGICAL.

This Department is conducted with the following Associate Editors by the MEDICO-LEGAL JOURNAL.

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Wm. Lee Howard, M.D. U. O. B. Wingate, M.D., Milwaukee.

as the organ of the Psychological Section.

The Psychological Section of the Medico-Legal Society has been organized, to which any member, Active, Corresponding or Honorary, is eligible on payment of an annual enrollment fee or dues of $1.50.

Any student of Psychological Science is eligible to unite with the Section without joining the Medico-Legal Society on an annual subscription of $1.50, payable in advance, and receive the MEDICO-LEGAL JOURNAL free. The officers for 1911 are as follows:

Chairman,

DR. FLOYD B. WILSON, LL.D., New York.

LEGAL AND SCIENTIFIC.	MEDICAL.
Vice-Chairmen.	**Vice-Chairmen.**
Clark Bell, Esq., of New York.	T. D. Crothers, M.D., Hartford, Conn.
Rev. Antoinette B. Blackwell, N. Y.	F. E. Daniel, M.D., Austin, Tex.
H. Browett, Esq., Shanghai,, China.	H. S. Drayton, M.D., New York.
Mary E. Chapin, of Boston, Mass.	W. L. Howard, M.D., Westb'ugh, Mass.
Caroline Foote Marsh, Brooklyn.	J. Mount Bleyer, M.D., New York.
Evangeline S. Adams, of New York.	Prof. Thos. Bassett Keyes, Chicago.
C. VanD. Chenoweth, Worcester, Mass.	A. E. Osborne, M.D., Glen Ellen, Cal.
H. C. Wright, Esq., Corry Pa.	Villa Faulkner Page, New York.
J. Thornton Sibley, M.D., New York.	Dr. C. K. Cole, New York.
Eliza H. McHatton, Macon, Ga.	U. O. B. Wingate, M.D., Milwaukee.

Treasurer,

CLARK BELL, 39 Broadway, N. Y.

Secretary,

FREDERICK C. DUNN, 39 Broadway, N. Y.

Executive Committee.

CLARK BELL, Esq., Chairman.

Villa Faulkner Page, New York. Dr. Alma A. Arnold, New York.
Frederick C. Dunn Esq., New York. Fred. Clift, M.D., of Provo, Utah.
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Sophie H. Scott, M.D., Des Moines, Ia. Gen. Stillman F. Kneeland, New York.
Harry Lesser, Esq., New York. FRED. C. DUNN, 39 B'way, N. Y.

The following new members have been duly elected:

DR. CECILLE C. GRIEL, of New York City.
MR. BRIAN G. HUGHES, of New York City.
MISS CLARA HUGHES, of New York City.
MR. FREDERICK C. DUNN, of New York City.
MISS BEATRICE M. DUNN, of New York City.
MARY E. CHAPIN, of Boston, Mass.

THE PSYCHOLOGICAL SECTION OF THE MEDICO-LEGAL SOCIETY.

ANNUAL REPORT, January 1, 1911.

To THE FELLOWS OF THE PSYCHOLOGICAL SECTION AND OF THE MEDICO-LEGAL SOCIETY.

The following subjects are within the Domain of Studies pursued by the Section:

1. The Medical Jurisprudence of Insanity.
2. Inebriety, Heredity and Sociology.
3. Criminality and Criminal Anthropology.
4. Mental Suggestion and especially of Physicians as to Clinical Suggestion and Therapeutic Hypnosis.
5. Experimental Psychology.
7. Clairvoyance.
8. Facts within the Domain of Physical Research, including investigation into so-called Modern Spiritism.

The work of the Section for the year, since the last Annual Report, may be summarized as follows:

FIRST.—THE PSYCHOLOGY OF THE TWENTIETH CENTURY, Leading contributors—Floyd B. Wilson, New York; Miss Villa Faulkner Page, New York; D. C. O. Sahler, Kingston, N. Y.; Dr. Henry Maudsley, London; Henry Frank, New York; W. Frederick Keeler, New York.

SECOND.—THE MEDICAL JURISPRUDENCE OF INSANITY. The New York Hospitals for the Insane: Their Early History. Contributors—Clark Bell, Dr. John B. Chapin Amariah Brigham, Dr. E. N. Brush, of the Shepard & Enoch Pratt Hospital, Maryland; Dr. H. E. Allison, of Matteawan; Dr. Robert B. Lamb, of Matteawan; Dr. Arthur W. Hurd, of Buffalo State Hospital; Dr. Charles W. Pilgrim, of Hudson River State Hospital; Dr. Elliott, of Willard State Hospital; Dr. William McDonald, Jr., Dr. Jules Morel, of Belgium; Dr. Reni Semelaigne, of France; Dr. J. Briller, Dr. Luigi Baronciric, Dr. Carolin, of Spain.

THIRD.—LONGEVITY. T. D. Crothers, M.D.; Clark Bell, Esq., LL.D.; Rev. Harry Gaze, Elbert Hubbard, The New York Times.

FOURTH.—CRIMINOLOGY AND PENOLOGY. Contributors—Clark Bell, Esq., LL.D.; Homer Folks, Dr. E. T. Devine, Charles S. Whitman, Esq.; Elbert Hubbard, J. V. Roos.

FIFTH.—JUDICIAL HISTORY AND BIOGRAPHY. Clark Bell, Esq.; Judges Joseph F. Daly, Abraham R. Lawrence, James W. Houghton, Victor J. Dowling and John J. Delany, William A. Purrington, Esq., Judge Willard Bartlett, Judge G. Vann, John Clinton Gray, Senators George E. Chamberlain and Jonathan Bourne, Jr., of Oregon; Chief Justice F. A. Moore.

SIXTH.—HEREDITY. Dr. Henry Maudsley, Stanley B. Atkinson, the Medical Record.

SEVENTH.—Sociological. Mr. Lloyd George, Dr. Paul Neander of Moscow, Dr. Charles S. Zillagy of Budapest, Ax Gustino de Sanctis of Italy.

EIGHTH.—Hysteria, by Tom Williams, M.D., of Washington, D. C.

The Standing Committees recommended for 1911 are as follows:

Telepathy, Modern Spiritualism, &c.—C. O. Lahler, Chairman; C. Van D. Chenoweth, Worcester, Mass.

Experimental Psychology and Psychical Research.—Prof. W. Xavier, Sudduth, of Chicago, Chairman; George W. Grover, M.D., Nashua, N. H.; Prof. Harlow Gale, of Minneapolis, Minn.; Rev. A. Brown Blackwell, of New York; Mr. Clark Bell, of New York City; J. Mount Bleyer, M.D., of New York City; Alexander Wilder, M.D., of New Jersey; Dr. Robert Sheerin, of Cleveland, Ohio.

Morbid Psychology.—William Lee Howard, M.D.; T. D. Crothers, M.D., Hartford, Conn.; Prof. C. H. Hughes, of St. Louis, Mo.; E. Sanger Browne, M.D., Chicago, Ill.; W. S. Magill, M.D., of New York City.

Hypnotism.—J. Thornton Sibley, M.D., of New York City, Chairman; H. S. Drayton, M.D., of New York City; T. D. Crothers, M.D., of Hartford, Conn.; Alice J. Saunders, of New York City; William Lee Howard, M.D.; Mr. Thomas Bassett Keyes, of Chicago, Ill.; Clark Bell, Esq., of New York City; C. O. Sahler, M.D., of Kingston, N. Y.

Psycho-Therapeutics.—Villa Faulkner Page, of New York City, Chairman; Prof. A. A. d'Ancona, San Francisco, Cal.

The Woman's Committee of the Section is composed as follows:

Committee of Women.—Caroline J. Taylor, Chairman; Alice Berillion, 7 Rue de la Sorbone, Paris, France; Antoinette Browne Blackwell, New York City; C. Van D. Chenoweth, Shrewsbury, Mass.; Rosalie Dailey, Brooklyn, N. Y.; Mrs. Laura Dayton Fessenden, Highland Park, Ill.; Eleanor Gridley, Chicago, Ill.; Esther Herman, New York City; Villa Faulkner Page, of New York City; Mrs. Eliza H. McHatton, Macon, Ga.; Mary E. Chapin, of Boston, Mass.; Mrs. Benjamin Scudder of New York City.

Every member of the Society is eligible to membership in the Section, as also the wives of members of the Society.

The Annual Dues of the Section are $1.50, entitling the members to the Medico-Legal Journal free.

The Section is open to all Students of Physchological Science.

January 1, 1911. Respectfully submitted,

CLARK BELL,

Vice-Chairman and Secretary.

Note.—The officers recommended by the report were duly elected by the Society on recommendation of the Executive Committee at January meeting, 1911.

ROLL OF MEMBERS—PSYCHOLOGICAL SECTION, MEDICO-LEGAL SOCIETY.

Clarence A. Arnold, Esq., Colorado Springs, Colo.
Prof. A. A. d'Ancona, 1022 Sutter Street, San Francisco, Cal.
Prof. D. Q. Abbott, Athens, Ga.
Lacey Baker, 113 East 19th Street, New York City.
Mrs. Helene S. Bell, 102 West 84th Street, New York City.
Clark Bell, Esq., 39 Broadway, New York City.
Harold Browett, Esq., Yuen-Ming-Yuen Road, Shanghai, China.

E. Sanger Browne, M.D., Kenilworth, Cook County, Ill.
Rev. Antoinette Brown Blackwell, New York.
Samuel S. Buckley, College Park, Prince George County, Maryland.
Prof. E. Boirac, Paris, France.
Dr. H. Baraduc, 191 Rue St. Honore, Paris, France.
Alice Berillon, 19 Rue de Savvie, Paris, France.
Dr. Marcel Briand, Hospice de Ville de Juiff, Paris, France.
L. C. Brown, Esq., Apartalo 322, Mexico City, Mex.
Dr. O. O. Burgess, 1482 Page Street, San Francisco, Cal.
Mrs. C. Van D. Chenoweth, Worcester, Mass.
D. M. Currier, M.D., Newport, N. H.
T. D. Crothers, M.D., Hartford, Conn.
Prof. Dr. J. Crispin, 1 Rue de Soudan, Algiers.
F. E. Daniel, M.D., Texas Medical Journal, Austin, Tex.
Isidore Dyer, M.D., Tulane University, New Orleans, La.
Mrs. Judge Dailey, Brooklyn, N. Y.
H. S. Drayton, LL.B., M.D., 37 Emory Street, Jersey City, N. J.
Havelock Ellis, M.D., Carbis Water, Lelant, Cornwall, England.
William S. Forest, Esq., Security Buildings, Chicago, Ill.
Mrs. Laura Dayton Fessenden, Happie-go-Luckie, Highland Park, Ill.
Dr. Frazer, Commissioner in Lunacy, Edinburgh, Scotland.
George W. Grover, M.D., Nashua, Mass.
Ursula Gestefeld, Chicago, Ill.
Prof. Harlow Gale, Chicago, Ill.
Eleanor Gridley, Orland, Ill.
Dr. Cecile A. Griel, Mt. Sinai Hospital, 122 Waverly Place, New York.
N. deV Howard, M.D., Sanford, Fla.
Rev. Phebe A. Hanaford, 230 West 95th Street, New York City.
Dr. William Lee Howard, Westborough, Mass.
Prof. C. H. Hughes, Editor Alienist and Neurologist, St. Louis, Mo.
Andrew Hirschel, 79 Dearborn Street, Chicago, Ill.
*Judge Arthur T. Johnson, Gouverneur, St. Lawrence, N. Y.
Dr. Oscar Jennings, 17 Rue Vernet, Paris, France.
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J. P. Klingensmith, M.D., Blairsville, Pa.
Charles Benjamin Knowlton, 130 Erie County Savings Bank Buildings, Buffalo, N. Y.
Prof. Kossozotoff, Professor of Medical Jurisprudence, St. Petersburg, Russia.
Clarence A. Lightner, Esq., 87 Moffat Building, Detroit, Mich.
Henry Lefuel, Cour de Appel, 15 Rue de 1 Universite, Paris,France.
George Leedru, Avocate la Cour de Appel, 42 Rue de Paradis, Paris.
Senor Rafael Montufar, M.D., Guatemala, S. A.
K. D. MacKenzie, M.D., St. Johns, New Foundland.
J. McDonald, Jr., 92 William Street, New York City.
Mrs. Eliza H. McHatton, Macon, Ga.
Dr. A. Maire, 10 Rue St. Legare, Paris, France.
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Max Nordau, 34 Av. de Villiers, Paris, France.
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Prof. Dr. Salvator Ottolenghi, University of Sienna, Italy.
Dr. Demetre Photakis, 7 Rue Broca, Athens, Greece.
Prof. Nina Rodrigues, M.D. President Medico-Legal Society, Bahia, Brazil.
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Prof. Dr. E. Regis, University of Bordeaux, France.
Prof. Dr. Carlo Ruata, Perugia, Italy.
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Alice J. Saunders, Dramatic Union, New York City.
P. W. Xavier Sudduth, 160 State Street, Chicago, Ill.
Dr. Robert Sheerin, Cleveland, Ohio.
T. J. Sibley, 730 East Third Street, Brooklyn, N. Y.
Dr. Jules Socquet, 6 Boulevard Richard le Noir, Paris, France.
Dr. J. F. Sutherland, Deputy Commis'ner in Lunacy, Edinburgh, Scotland.
Caroline J. Taylor, Bridgeport, Conn.
Charles Teubner, Saticoy, Cal.
Dr. A. Tovarsky, Moscow, Russia.
Dr. Paul Tesdorpf, Thierschplatz I, Munich, Bavaria.
Mrs. Beatrice J. de Vol, 345 W. 70th Street, New York.
Dr. de Val Court, 64 Boulevard St. Germain, Paris, France.
U. O. B. Wingate, M.D., 204 Biddle Street, Milwaukee, Wis.
Harry Wellington Wack, Esq., 42 Broadway.
Dr. T. R. Winde, Heustrasse 13, Munich.
Ernest Wende, M.D., 471 Delaware Avenue, Buffalo, N. Y.
H. C. Wright, Esq., Corry, Pa.
Lum Smith, Esq., 154 West 84th Street, New York City.
Dr. Anna W. Bloomer, 135 West 64th Street, New York City.
Dr. Mariette McGinnis, 118 West 82d Street, New York City.
Mrs. E. Van Zandt Wheeler, Cliff Avenue Extension, Portchester, N. Y.
Mrs. L. A. Sargent, 948 Washington Street, Buffalo, N. Y.
Mrs. Evangeline S. Adams, Carnegie Hall, 883 Seventh Avenue, New York.
Dr. F. J. Gottlieb, 29 West 37th Street, New York.
Mrs. James T. Rorer, 42 Broadway, New York City.
Robert L. Watkins, Esq., Astor Court, 29 West 34th Street, New York.
Signor Cavaliere Luigi Costantino, Room 816, Carnegie Hall, New York.
Mrs. Martha Hughes Cannon, Salt Lake City, Utah.
Dr. Charles Lloyd, 176 Amity Street, Brooklyn, N. Y.
George Thompson, Connellsville, Pa.
Dr. F. L. McDonald, Box 248, Darien, Conn.
Mr. Washburn, Pocantico, N. Y.
John M. Cushman, Esq., Jamestown, N. Y.
Frederick A. Rhodes, 321 Fifth Avenue, Pittsburg, Pa.
Alexander F. J. Johnson, Esq., Clevedon, Perry Vale, Forest Hill, S. E. London, England.

January 1, 1911.

Respectfully submitted,
CLARK BELL,
Vice-Chairman and Treasurer.

SECTION OF MEDICO-LEGAL SURGERY MEDICO-LEGAL SOCIETY.

ANNUAL REPORT—JAN. 1, 1911.

TO THE FELLOWS OF THE SECTION OF MEDICO-LEGAL SURGERY AND OF THE MEDICO-LEGAL SOCIETY:

The domain and province of the Section is defined by the following standing resolution:

Resolved, That all questions in Medico-Legal Surgery are to be deemed within the scope and province of the Section on Railway Surgery, including, especially, military and naval surgery, and the broad domain of surgery in its relation to medical jurisprudence.

The Section is intended to embrace, besides naval, military, and railway surgeons and counsel, railway managers, railway officials, whether lawyers or surgeons; many of whom have already united with the body, and who are eligible to membership under the statutes of the Society.

Three members of the Executive Committee constitute a quorum, and five of the Board of Officers of the Section.

The work of the Section during the preceding year has been devoted to the advancement of the science of the medical jurisprudence of surgery in all of its branches. The papers contributed upon these branches of science have been in part published in the MEDICO-LEGAL JOURNAL, which is the official organ of the Section.

The following are Associate Editors:

Medical.	Legal.
Granville P. Conn, M.D., Concord, N.H.	Clarence A. Lightner, Esq., Detroit, Mich.
Webb J. Kelley, M.D., Galion, Ohio.	
Ch. Sur. Henry McHatton, Macon, Ga.	Judge Wm. H. Francis, New York.
	Judge Charles G. Garrison, of N. J.

This department is conducted as the organ of the Section of the Medical Jurisprudence of Surgery of the Medico-Legal Society.

MEDICO-LEGAL SURGERY.

This department is conducted as the organ of the Section of the Medical Jurisprudence of Surgery of the Medico-Legal Society. Its officers for 1911 are as follows:

To Railway Surgeons and Railway Counsel:

We take occasion to advise you to unite with the Section of Medico-Legal Surgery, which can now be done by an annual subscription of $1.50, entitling each member to the MEDICO-LEGAL JOURNAL free.

Members of the Section on Medico-Legal Surgery, who have not remitted their annual subscription to the Section, will please send same to Judge William H. Francis, 39 Broadway, New York, and members will please not confound the Section Dues with the Annual Dues of the Society, which should be remitted to Clark Bell, Esq., Treasurer, 39 Broadway, New York. Members of the Society or Section will please propose names for membership in this Section.

It is proposed that members of the Society and Section each donate one bound volume annually to the Library of the Medico-Legal Society, by action of the Executive Committee.

The following officers are recommended for re-election for 1911:

Chairman,

Chief Surg. Charles K. Cole, M.D., late of Helena, Mont., now of New York.

Vice-Chairmen.

Clark Bell, Esq., of New York.
Judge L. A. Emery, of Maine.
Judge W. H. Francis, of New York.
Hon. George R. Peck, of Illinois.
Hon. J. M. Thurston, of Nebraska.
L. L. Gilbert, Esq., of Pennsylvania.
Clarence Lightner, Esq., of Detroit.
Surgeon Thos. Darlington, of N. Y.

Vice-Chairmen.

Ch. Sur. F. H. Caldwell, M.D., of Fla.
Sur. Geo. Chaffee, M.D., of Brooklyn.
Geo. Goodfellow, of San Francisco.
Ch. Sur. W. B. Outten, M.D., St. Louis.
Ch. Sur. T. R. Richardson, of Wis.
Ch. Sur. F. A. Stallings, M.D., of N. H.
Ch. Sur. S. S. Thorne, M.D., of Ohio.

Secretary,

Clark Bell Esq., 39 Broadway, N. Y.

Treasurer,

Judge William H. Francis, 39 Broadway, New York City.

Executive Committee.

Clark Bell, Esq., Chairman.

Ex-Ch. Sur. Geo. Goodfellow, M.D., Cal.
Ch. Sur. A. C. Scott, M.D., of Texas.
Sur. J. N. Hall, of Denver, Colo.
Ch. Sur. T. J. Richardson, of Wis.
Claim Agt. R. C. Richards, Esq., Chicago
Ch. Sur. F. A. Stillings, M.D., of N. H.

The following is the present

ROLL OF MEMBERS:

Surgeon H. B. Allen, Cloquet, Minn.
Surgeon E. L. Annis, M.D., La Porte, Ind.
Surgeon W. G. Branch, M.D., Bunkie, La.
Clark Bell, Esq., of New York.
Hon. C. H. Blackburn, of Cincinnati, Ohio.
Surgeon S. Grover Burnett, M.D., of Missouri.
Surgeon T. J. Bennett, M.D., of Austin, Tex.
Surgeon S. Belknap, M.D., Big Four System, Niles, Mich.
Surgeon W. H. Burland, M.D., Punta Gorda, Fla.
Charles L. Baxter, Esq., Atty. El. R. R., Boston, Mass.
Surgeon George Chaffee, M.D., 226 47th Street, Brooklyn, N. Y.
Surgeon D. W. Gowan, C. N. R. R. & S. P. & D, Hinckley, Minn.
Chief Surgeon G. P. Conn, M.D., Concord, N. H.
Chief Surgeon Charles K. Cole, M.D., of 26 West 126th St., New York.
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Surgeon J. M. Dinnen, Fort Wayne, Ind.
Surgeon C. M. Daniel, M.D., Buffalo, N. Y.
Surgeon H. W. Darr, M.D., Caldwell, Tex.
Surgeon A. E. Ellingwood, Attica, N. Y.
L. E. Dickey, Esq., Birmingham, Ala.
SurgeonA. Eyer, M.D., Cleveland, Ohio.
Judge William H. Francis, 39 Broadway, New York City.
Chief Surgeon J. C. Field, H. & D., Denison, Tex.
Surgeon De Sassure Ford, M.D., Augusta, Ga.
Chief Surgeon J. H. Ford, M.D., C. W. & M. Railway, Wabash, Ind.
Surgeon S. L. M. Foote, M.D., Argentine, Kan.
Surgeon William Govan, M.D., Stony Point, N. Y.
Chief Surgeon George Goodfellow, M.D., of California.
Surgeon W. N. Garrett, M.D., Forney, Tex.
Surgeon G. P. Howard, M.D., of Texas.
Surgeon J. L. Hall, M.D., Fairhaven, N. Y.
Surgeon John E. Hannon, Jasper, Fla.
Col. Valery Havard, M.D., Med. Dept., U. S. A., Fort Monroe, Va.
Surgeon N. deV. Howard, M.D., Sanford, Fla.
Surgeon John H. Hurt, M.D., Big Springs, Tex.

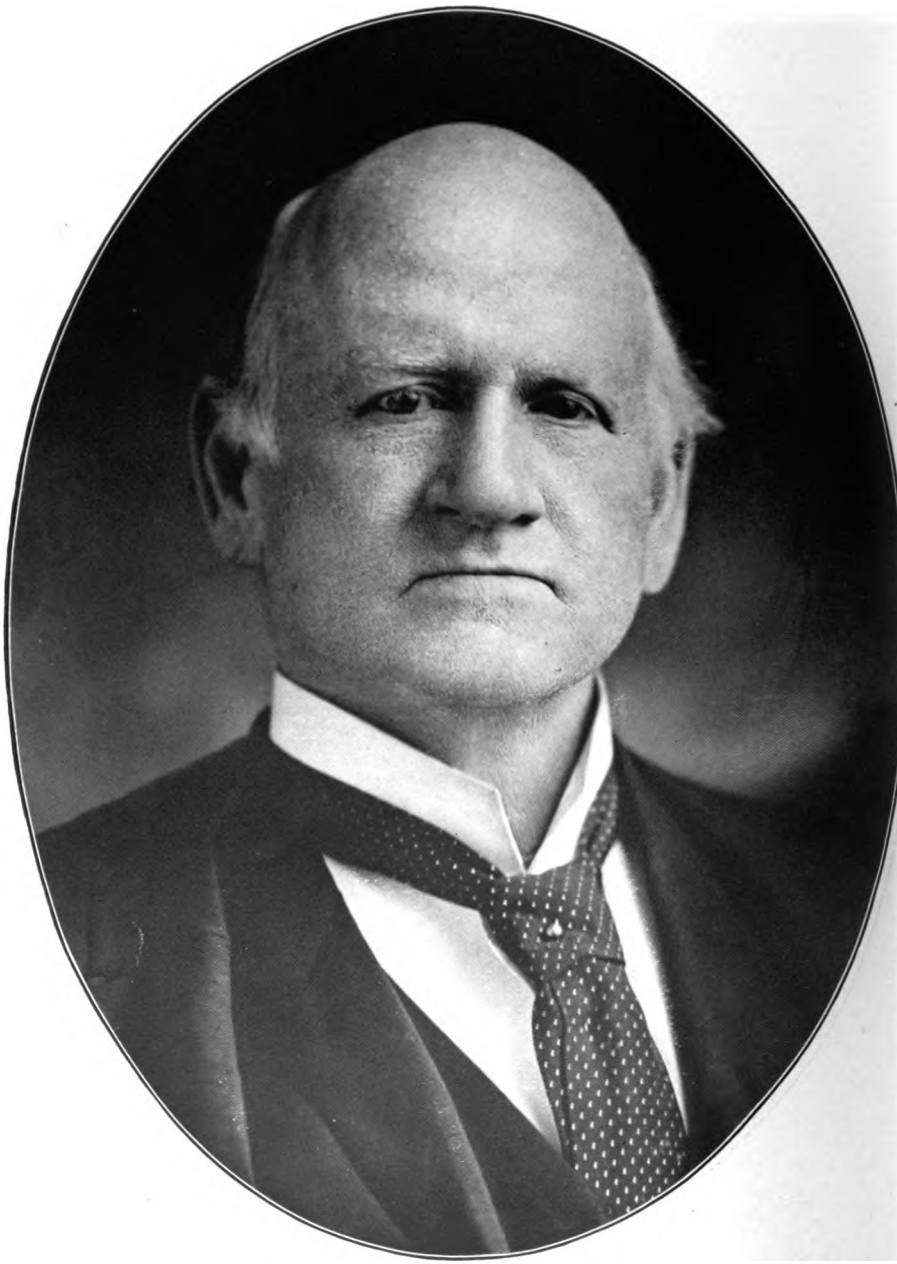
Surgeon L. C. Hicks, M.D., Burlington, Wis.
Surgeon F. S. Hartman, M.D., 5 Blue Island Avenue, Chicago, Ill.
Chief Surgeon W. T. Jameson, M.D., of Texas.
Dr. H. Johnson, Surgeon at Hospital, Grandin, Mo.
W. J. Kelly, Esq., of New York.
Surgeon A. P. Knapp, M. P. Railway, Leoti, Kan.
Surgeon R. E. L. Kincaid, Bonham, Tex.
Chief Surgeon N. Y. Leet, M.D., Scranton, Pa.
Surgeon I. C. Legare, M.D., of Donaldson, La.
Surgeon J. A. Lightfoot, M.D., Texarkana, Ark.
Surgeon C. F. Leslie, Clyde, Kan.
Surgeon W. H. Meyers, M.D., Myersdale, Pa.
Chief Surgeon Solon Marks, Milwaukee, Wis.
Chief Surgeon W. H. Monday, M.D., Terrell, Tex.
Chief Surgeon H. McHatton, M.D., Macon, Ga.
Chief Surgeon John Mears, Kansas City.
Chief Surgeon J. C. Martinn, F. H. W. & W., Findlay, Ohio.
Surgeon A. A. McLeod, M.D., of Michigan.
Surgeon William B. Morrow, N. Y., O. & W. R. R., Walton, Delaware County, New York.
Surgeon W. H. Monday, Terrell, Texas.
Surgeons McCloud and Hodges, High Spring, Fla.
Judge J. C. McCarry, Walker, Minn.
Chief Surgeon W. R. Nugent, M.D., Oscaloosa, Ia.
Surgeon M. B. V. Newcomer, Tifton, Ind.
Chief Surgeon W. B. Outten, St. Louis, Mo.
Hon. George R. Peck, Chicago, Ill.
Surgeon T. P. Russell, M.D., of New Oshkosh, Wis.
Surgeon J. T. Reeve, M.D., Appleton, Wis.
R. C. Richards, Esq., Claim Agent, N. W. R. R., Chicago, Ill.
Surgeon C. L. Stiles, M.D., of Oswego, N. Y.
Surgeon E. M. Schofield, M.D., of Jamestown, N. Y.
Chief Surgeon C. A. Smith, M.D., Tyler, Tex.
Chief Surgeon F. A. Stillings. Concord, N. H.
Surgeon H. B. Sauner, M.D., of Wisconsin.
Chief Surgeon A. C. Scott, G. C. & S. F. R. R., Temple, Tex.
Surgeon Samuel D. Smoke, M.D., Fort White, Fla.
Hon. John M. Thurston, Omaha, Neb.
Chief Surgeon S. S. Thorne, M.D., of Toledo, Ohio.
Surgeon A. A. Thompson, Waxahachie, Tex.
Judge L. R. Watts, Portsmouth, Va.
Surgeon B. F. Wilson, M. D., of Slater, Mo.
Surgeon C. F. Ward, M.D., of Ohio.
Surgeon H. J. Williams, M.D., of Georgia.
Chief Surgeon Webb J. Kelly, Secretary, Galion, Ohio.
Surgeon J. R. West, M.D., Richmond, Ind.
Nelson W. Wilson, M.D., 53 Seventh Street, Buffalo, N. Y.
Surgeon J. P. Webster, M.D., Chicago, Ill.
Judge Allen Zollars, Solicitor P. R. R., Fort Wayne, Ind.

The Medico-Legal Journal will furnish the following list of works, at publisher's rates on application, and will make a special effort to give them to the members of the Society and its sections as promptly as possible.

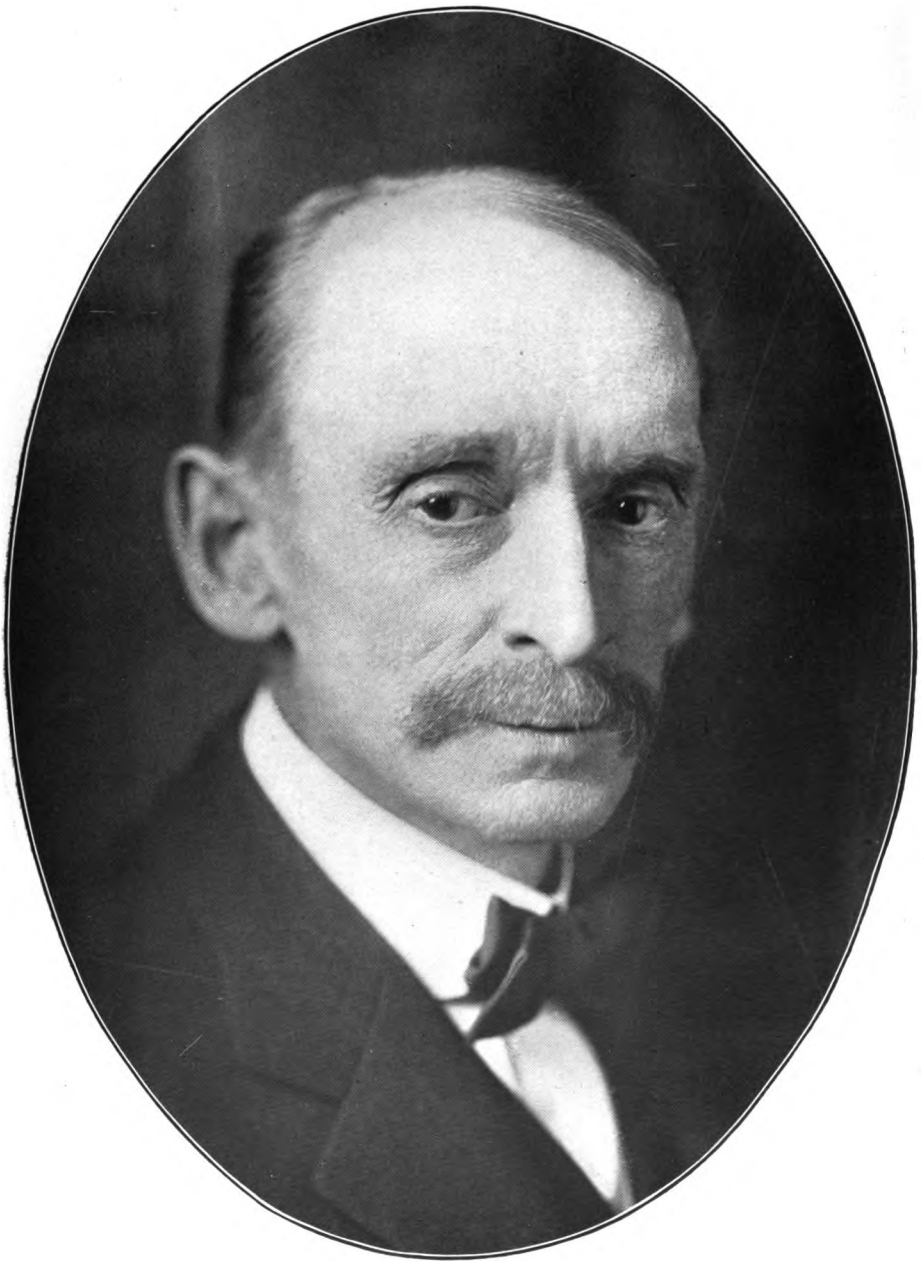
The publications which the Medico-Legal Journal offers for sale are as follows:

Medico-Legal Papers, 2nd Series, Illustrated, Vol. I.....$2.50
(This book is nearly out of print.)
Medico-Legal Papers, Vol. II (Rare)..... 2.25
Medico-Legal Papers, Vol. III..... 2.00
The Medico-Legal Journal, 28 volumes, except Vol. I, which is out of print, at per volume..... 3.00
The Medico-Legal Journal, No. 1, Vol. I, out of print and reproduction 2.00
The Medico-Legal Journal, No. 2, Vol. I, out of print..... 2.00
The Medico-Legal Journal, Nos. 3 and 4, Vol. I, out of print, at each. 1.00
The Bulletin of the International Congress on Tuberculosis for 1900, 1901, 1902, 1904 and 1906, each..... 1.00
Bell's Medico-Legal Studies (Vols. 2 to 9 inclusive), No. 1 out of print 2.00
Bulletin and Transactions of the International Congress on Medical Jurisprudence, 1895 ..... 1.50
Bulletin of the Medico-Legal Society, Vol. I, and in numbers as issued at 25 cents each..... 1.10
The Supreme Court of the States and Provinces of North America, Vol. I 5.00
The same to subscribers for Vol. II..... 5.00
Taylor's Medical Jurisprudence. Bell's Phil. Ed., Lea Bros., Philadelphia, in leather, $5.50; cloth..... 4.50
Stewart's Legal Medicine, Bobbs-Merrill Co., Indianapolis, at catalogue price.
Underhill's Criminal Evidence, Bobbs-Merrill Co., Indianapolis, at catalogue price.
Herold's Legal Medicine, J. B. Lippincott Co., Philadelphia, sheep, $5.00; cloth 4.00
Psyche, by Dr. Max Talmey..... 2.50
Studies in the Psychology of Sex, by Havelock Ellis, of England, F. A. Davis Co., Philadelphia, complete in six volumes, as follows:
1. The Evolution of Modesty..... 2.00
2. Sexual Inversion 2.00
3. Analysis of Sexual Impulse..... 2.00
4. Sexual Selection in Man..... 2.00
5. Erotic Symbolism 2.00
6. Sex in Relation to Society..... 3.00
Medical Jurisprudence of Inebriety..... .60
Spiritism, Hypnotism and Telepathy, as Involved in the Case of Leonora E. Piper..... 1.10
Standard Dictionary of Funk & Wagnalls at catalogue price and all other publications of Funk & Wagnalls at catalogue prices.

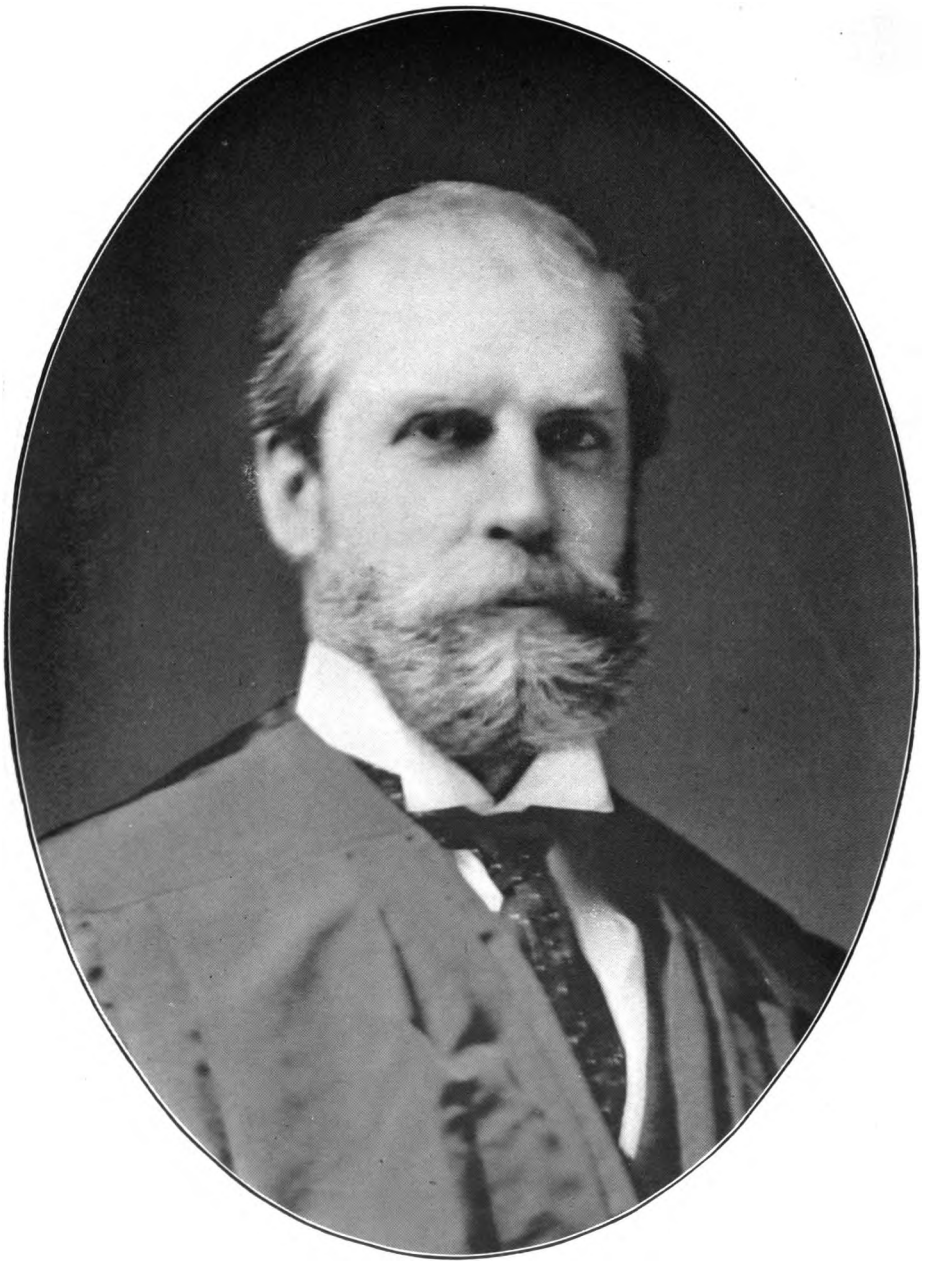
HON. EDWARD DOUGLASS WHITE
Chief Justice
Supreme Court of the United States



HON. JOHN MARSHALL HARLAN
Associate Justice
Supreme Court of the United States



HON. WILLIAM RUFUS DAY
Associate Justice
Supreme Court of the United States



HON. CHARLES EVANS HUGHES
Associate Justice
Supreme Court of the United States

THE DR. C. O. SAHLER SANITARIUM,

KINGSTON, N. Y.

BY THE EDITOR.

After a year I again visited this Institution, in early August 1910, which has attracted so much attention, and which has occupied a unique position, being the only one of its kind in the United States. The house was filled to overflowing. The same splendid feeling of rest and tranquility remains. The atmosphere is that of a great household, a family home where love and affection is had for the administration, but great and splendid changes have been made in the beautiful home environment, and it is tenfold more beautiful, more restful to the eye and to the soul.

Dr. Sahler has been able since my last visit to carry out some of his long cherished views, and has increased the efficiency and usefulness of this sanitarium. He has placed it in the front rank among the most complete and perfect institutions of its class upon the American Continent.

In front of the main building was a magnificent lovely lawn and meadow, adorned with rows of stately shade trees, which had been transplanted in an early day fronting on the same road that bounded the place on the South. He has added this superb addition to his grounds extending this splendid attraction and the first interior avenue of the magnificent maple trees now is decorated with the hammocks of his guests from one street to the other. One must see this effect to realize the great charm, that it lends to the view from the front verandah of the main structure and to the restful and uplifting feeling of repose that the addition lends to the main institutioon. It is lovely, grand and beautiful beyond expression.

He has now completed a large stately stone structure which will be devoted to arts and crafts and additional rooms for his guests that have increased far beyond the capacity of his house to provide for, and the overflow of which alreay fill a large number of cottages near to his place on the North, East and West. This new commodious and large structure, completed last fall, is the best, in elegance, stability and usefulness of his buildings that now form an imposing and extensive group.

The sanitarium Dr. Sahler has constructed is as much a resting place and a resort for his many friends as it is a retreat for the invalid.

He is a physician of the Regular School and has won his greatest laurels in the wonderful cures that have followed his efforts. His peculiar successes, so far as I have observed and known of them, seem to have shown greatest results in ailments peculiar to mental and nervous diseases, and perhaps no man on this continent has had a larger experience than has he in the practical value of Hypnotic suggestion as a therapeutic agent in this class of cases.

I have been personally cognizant of a few while I have visited here in former summer vacations.

A man came to him from a New England city for help on the recommendation of one of the State Lunacy Commission at Albany, (who had refused to take his case) who had developed a strong inclination to kill his wife, which he feared might dominate him, (and which had suddenly increased) and which he wished to eradicate and annihilate. I heard the man's story and was present at Dr. Sahler's at his first appearance with physicians from New York and saw Dr. Sahler's first treatment of the man, which was directed towards reaching the sub-conscious mind of the man by suggestion.

It was entirely successful and within three months he was discharged cured, no medicine of any kind used in his case, suggestion only intelligently applied.

I knew a lady and was present at her first treatment by Doctor Sahler, who believed she had been bitten by a mad dog, and who was possessed and dominated by her fear that she would suffer from rabies. It was successfully treated in the same manner. She went away a little too soon after a few months of fair progress towards recovery, where it was retarded, her fear returned partially and she had to resume treatment where after a shorter stay the cure was complete and permanent.

I was also present when a husband brought his wife to the Sanitarium, who had been in charge of a so-called nerve and mind specialist. He had entirely failed and surrendered her to her husband as mentally incurable and advised him to place her in an insane asylum, offering to furnish the necessary medical certificates to enable him to do so. The husband's story to Dr. Sahler, which I heard, was most pathetic. He implored the doctor to take her with tearful appeals. Two physicians who were then visiting Dr. Sahler also heard this statement and they added their advice and concurred in my suggestion to the doctor to try it and see if the woman could not be saved from the insane asylum. The mental disturbance was an insane delusion which did not, however, render her dangerous to herself or others, and Dr. Sahler consented to make the effort and I watched the case witn very great interest. He treated her wholly by suggestion without medicine, and was entirely successful. After a few months she returned home and six months later returned of her own motion, where I saw her, and she said she was not ill, but was so pleased with the result that she desired to spend a few weeks continuing the treatment, which she did, with very good results.

Last season he successfully treated a case where the pulse of the patient had been reduced to twenty-four, and had remained there prior to Dr. Sahler's treatment for a long period. He was enabled after a few months to restore the action of the heart to the normal condition, by suggestion only and without medicine by reaching the subconscious mind.

He now has a similar case in hand, where the pulse has run to the astonishing figure of two hundred. He is treating it in exactly the same manner as he did the former one. He made these cases the subject of remark and explanation regarding his treatment in his usual Sunday evening address, and he predicted and promised to reach the same results in the latter as he did in the former case.

Dr. Sahler as a rule speaks every Sunday evening in the large hall or

gymnasium. He exercises an enormous influence and remarkable power over all the patients in the institution in this way. The whole place is managed and conducted like a great family would be. It has in no sense the feeling of a hospital. Many of the cures are remarkable, and as a place of resort for a few weeks of rest and relaxation to those who need it, it has few equals.

There is an art class open to all the inmates which will occupy the new building where every facility will be furnished for study, and "Arts and Crafts" will be open to those patients or visitors, who take an interest in this branch of development and culture, for its influence on the mind.

Dr. Sahler has two farms, on which he keeps a carefully selected milking herd from which his table is supplied. Most of the vegetables used are grown on his own place, and are, of course, of the best quality and fresh. His guests get the benefit of all this, and his poultry raised by himself supplies his table. He has recently enlarged his buildings so as to keep about twelve hundred hens.

Clinical Work.

Dr. Sahler has facilities for his clinical work over any man in his profession that I have ever met. He can segregate each patient and place each in complete isolation, where silence is complete, and perfect, and where if desirable the patients if advanced at once go into "the silence." He can thus treat ten patients at the same time, each of whom is entirely isolated, free from all extraneous influences, and including all sound or disturbance of any kind. Medical men would be greatly interested to see this and study his method. His private office is very large, entirely detached with a high ceiling, abundant light on three sides and capable of treating splendidly in the way that Bertillion, De Jonge and other eminent men abroad habitually employ a class of twenty or even more if he should desire to do so.

In Dr. De Jonge's Clinic, when I last visited him at the Hague, he always treated all his patients in his large office at the same time en masse. He had twenty-nine patients there, all under treatment at a fixed hour, at the same time, all of whom he successfully hypnotized, except one, (an epileptic boy) of which at the same time eleven or twelve were placed in a deeper state or condition and left standing, unable even to move, some conscious, others not conscious of what was passing about and around them, and all apparently benefited by the treatment. One woman who was very violent and unruly among the number, was completely tranquilized by the treatment.

I was present at Bertillon's Clinic at Paris, held at a fixed hour on notice at his own office, where a large number of patients were present and all treated together, or at the same time, each one separately, and the methods of these eminent men were similar.

I do not think any professor in the foreign capitals that I visited have the facilities which Dr. Sahler has installed in his institution. He attaches great importance to the segregation of his patients and to have them at the time of treatment entirely free from extraneous influences of any kind. He is so skilled in his knowledge of the active and sub-conscious

mind, that his suggestions are often mental and not audible, when he is certain that he is en rapport with the sub-conscious mind. He rarely interferes with the consciousness of his patients under treatment, and only when he finds it preferable, or believes that he would obtain better results. I have frequently seen him give mental directions for the patient's action without uttering a word, making a sign, and entirely without contact, which the patient would receive mentally and follow implicitly when in the hypnotic state or condition. His assistants, who aid him in cases of ordinary nervous affections, where it is not deemed necessary to reach the sub-conscious mind, and where mental or simple suggestion is needed or deemed necessary have the benefit of this most restful and improved environment. The patient often falls asleep at the close of the treatment, as all the surroundings suggest and favor it, which experience has demonstrated to be very beneficial to many. Dr. Westcott, his medical assistant, has also the benefit of this isolation, if he should need it. No hospital I have ever visited has such splendid facilities as this, all designed, fitted and furnished according to Dr. Sahler's ideals, based on his great experience during so many years in the treatment of this class of cases.

Suggestion and the Sub-conscious Mind,

It is doubtless in this department that Dr. Sahler has reached and realized his greatest successes, and made his most remarkable cures. In all cases that I observed in Foreign Capitals, contact was greatly relied upon and seemingly necessary. Dr. Sahler has under daily observations not less than 200 cases,, including those treated by his assistants, always under his supervision, and direction. He has become exceedingly advanced in his peculiar and extraordinary power in reaching control of the sub-conscious mind. He can often accomplish this after a few previous efforts with most patients, and can often reach it mentally without contact, purely by mental processes. This he frequently demonstrates before those who hear him lecture in actual dmonstration of his work upon patients, or subjects, often controlling mentally without contact, not only the action of the subject, but sensation to pain, localizing sensation and changing it from side to side of the patient, and from one part of the body to another, without voice or touch by mental suggestion alone at his will. This power is invoked rarely and only when necessary to remove or change fixed ideas, or illusions in cases where these change the health and dominate the action and conduct of the patient, or affect the disease. This may be used in reaching the cause of the ailment and lead to and result in its removal, through the suggestion thus given to the sub-conscious mind, which restores the health of the sufferer. It is here that Dr. Sahler is at his best. We have as yet no public clinic for the treatment in New York City, although Foreign Professors in European Capitals successfully maintain them and have done for many years. Perhaps Margaret Higgins in New York City comes nearer than any other one I have known to the methods employed abroad. There are several who employ these methods in private practice. She has had the benefit of studies and observations with leading foreign men of eminence like Bertillon, De Jonge, Moll and others.

I hope to see a clinic of this kind open to the poor in New York City, at least twice each week. It is only a question of time, as it seems to me, and it would be a great public boon.

Dr. Sahler has almost infinite and never tiring patience, tenderness and gentleness in waiting for success in difficult cases. The ignorant and uneducated mind has been taught to distrust Hypnosis as a therapeutic remedy in the traeatment of the diseases of the mind. Many, and perhaps the majority, would instinctively recoil from its use on themselves, through an indefinite fear creating distrust, without reason.

It is often said to be most difficult to place the mind of the insane under complete control so as to give the operator access to the sub-conscious mind.

If this could be reached always with the insane, it might point out a Royal road in the treatment of insanity to rapid recovery.

A fixed insane delusion which dominates the mind is recognized as a test of insanity.

If through the sub-conscious mind that delusion could be reached, removed, and eliminated, insanity would terminate.

This Dr. Sahler has accomplished in a great number of cases. He refuses to treat the insane at his institution for obvious reasons, but in spite of all his precautions, he has sometimes through the anxiety of friends, had insane persons placed in his charge without knowing it, especially those on the border line, where it is yet undeveloped, obscure, and sometimes not recognizable even by an expert.

It is unscientific to say, that the insane can not be placed in deep Hypnosis. My observation justifies me in asserting my belief that if Dr. Sahler was placed in charge of an insane ward in a State Hospital, he could reach the sub-conscious mind of fifteen or twenty per cent. of the inmates; and if it did so reach them, he probably would through suggestion reach the cause and by dispelling and eliminating the delusion, restore the patient to clearness of perception and right thinking.

It is sometimes said among physicians that chronic cases in mental diseases are incurable in chronic Dementia, where the patient is perfectly harmless; in Paralysis where the causes are necessarily hidden and obscure; this field is unexplored of treatment by suggestion through the sub-conscious mind, in complete or deep Hypnosis, which is now open and presented to medical men.

I know of some chronic cases that have fallen under Dr. Sahler's care which he has treated for years, and has sat patiently waiting for changed conditions, which may yet come. I have one in mind of years standing, where great physical changes have come since my last observation, accompanied by a loss of twenty-five pounds or more in weight with a marked improvement in mental alertness which now can be recognized. No other man, but Dr. Sahler, would have had the patience, and hope of ultimate recovery that must have inspired him.

He reaches the confidence of his patients before he hopes to succeed.

A victim of paralysis told me he believed he would get well, and showed me the improvement he had made in walking alone, and I met him alone on the street walking with a smile on his face and hope singing to him in his heart and glistening in his eyes.

WORK OF NEW YORK PROBATION ASSOCIATION.

By Maud Miner

Since the New York Probation Association was organized, it has been especially concerned with the problem of girls and women guilty of moral obliquity. At the same time it has helped individuals from the courts and others who have not reached the courts; it has endeavored to learn about the causes responsible for bringing a vast number of girls each year into a life of prostitution. It has found that conditions at home, at work and at play, and the presence in society of the wretched men who procure girls for immoral purposes are responsible for much of the trouble.

CAUSES OF IMMORALITY.

Girls come from broken homes, deserted by father or mother, or where father or mother is dead, from sweatshop homes in the crowded districts of the city and from homes where there has been drunkenness, profanity and lack of understanding and sympathy. The work conditions,—the lack of work, the dangerous work and seasonal work have been responsible for some of the trouble. Girls find it almost impossible to live on the five dollars a week which they receive from the store, the factory or the workshop. The places where the girls have sought fun and amusement have proven very dangerous and many young girls have entered upon a life of immorality by way of the dance hall and the moving picture shows. The men who procure girls for immoral purposes and who send them to the streets to earn money for their own enrichment are responsible to a great extent to an increasing number of women who enter upon a life of prostitution. That these men beat and abuse the girls because they do not bring in enough money and that they threaten to kill them or to slash their faces if they give evidence in court against them, are facts frequently revealed if the girls confide their stories.

HELPING THE GIRLS.

The New York Probation Society has helped many girls through Waverly House, its employment bureau and by visiting and befriending the girls in their homes. With the 397 girls referred to the Association this year, 129 of whom were received for the first time at Waverly House, there has been much work of a reformative character to do. By caring for the girls temporarily at Waverly House, sending them to their homes in other cities, finding work for them, providing medical care and treatment when necessary, we are able to help many of these girls to live good lives.

PREVENTIVE WORK.

This year the Association has increased the preventive work and has arranged to have a worker in each of the districts into which the city has been divided for the purpose of this work. This is to prevent the younger girls who are in danger of becoming morally depraved from the stigma and disgrace of the court. By increasing this protective work, providing more education in sex hygiene and moral education, by improving conditions at home and at work and at play, by urging an equal standard of morals for men and for women alike, and by checking the open advertisement of vice—the soliciting in the public streets and checking the spread of prostitution to the tenement districts, we will do much to check the increase of prostitution.

(Continued from page 154. December Number.)

By the Editor.

Dr. Austin Flint is one of the ablest of the elder physicians of the American Metropolis.

He has always had decided opinions which he has never concealed and freely expressed. He fully believed that Patrick was innocent of the death of Rice. He has publicly stated and suggested that Oedema of the lungs was the cause of the death of William M. Rice. He was selected as a witness on the trial, prepared himself for an examination as an expert witness, on the trial, and prepared a brief, for that purpose.

He is reported in the New York Times of December 20, 1910, when the question was expected to go before the Governor, Horace White, that "He had always maintained that whatever the true explanation of Rice's death may be, it was impossible from the medical point of view, to accept as proved any of the theories put forward by the prosecution. By a chain of unfortunate circumstances he was not able to bring out his views of the case on the stand, but has still in his possession the brief which he drew up for the purposes of the defense with regard to the matter. In it he declares that Rice's symptoms and the post-mortem examination didn't bear out either the mercurial poisoning or the death by chloroform theory, and suggests oedema of the lungs as the real cause of death.

This brief is dated Feb. 11, 1902, and the authorities cited were the latest publised at that time. They still hold good, however, Dr. Flint explained, though more recent editions of the works quoted have appeared. In the brief Dr. Flint concerns himself only with the medical aspect of the case, and does not deal with the question as to whether there was any other criminality in connection with Rice's death.

I invited Mr. Austin Flint to present his views upon the case before the Medico-Legal Society.

He accepted my offer and explained that his health was such that he could not go out at night, on the day of the meeting and sent me the following:

To the fellows of the Medico-Legal Society, and to Mr. Clark Bell, Chairman of Select Committee:

The New York Times of 20th of December, 1910, correctly published my views on the Patrick case, with the changing of one date, and I take pleasure in complying with your request that it be read before the Society on the 21st instant. As corrected it is as follows:

It was read at the December Meeting at the Waldorf Astoria.

The views sent me by Dr. Austin Flint were as follows:

THE CAUSE OF THE DEATH OF WILLIAM M. RICE.

By Austin Flint, M.D., of New York.

"Question of Poisoning by Some Preparation of Mercury.—In the case of Rice, Prof. Witthaus found a small quantity of mercury in certain of the organs given to him for examination. There is no evidence that Rice ever presented any of the symptoms of either acute or chronic mercurial poisoning. In the absence of such evidence all authorities

agree that the detection of mercury in the body after death is no ground for the opinion that mercury had been administered or taken with criminal intent.

WEIGHING THE SYMPTOMS.

"Whether the mercurial compound has acted as a poison or not, must be determined from the symptoms and appearances; whether it has been given or taken as a medicine or not is a conclusion which must also be determined from other circumstances.

"Nothing is more common than to discover traces of mercury in the stomach, bowels, liver, kidneys, or other organs of a body. No importance can be attached to this discovery in the absence of evidence that the deceased had actually suffered from symptoms of mercurial poisoning." Taylor, Medical Jurisprudence, Phil., 1897, page 148.)

"Mercury may remain in the body and be found after death long after its administration has been discontinued. Salivation has been known to occur without a fresh exhibition of mercury in one case after an interval of three months, and in another after an interval of six months." (Taylor, On Poisons, Phil., 1875, page 359.)

"Kussamul and Group-Besanez have found it (mercury) in the liver as much as a year after its administration had been stopped." (Hare, Practical Therapeutics, Phil., 1897, page 259.)

"The preparation of mercury most commonly used with criminal intent is corrosive sublimate. The dose is 1-16 to 1-8 grain. The minimum fatal dose is three to five grains. There is no evidence that corrosive sublimate was ever given to Rice. It is possible (statement of Dr. Carry) that Rice may have obtained and taken a preparation of mercury (probably the protiodid) a few weeks or months before his death. If this be the fact, it would account for the mercury found in the body by Dr. Witthaus. The protiodid of mercury is one of the milder salts. The dose is 3-4 to 1 grain three times daily, gradually increased to 2 or 3 grains three times daily.

MERCURY OUT OF THE QUESTION.

"In view of the above the theory that any preparation of mercury was the cause of death or contributed to the fatal event may be dismissed as without foundation in fact or evidence.

"Question of Death from the Inhalation of the Vapor of Chloroform.—So-called confessions of an alleged accomplice of the defendant are assumed to show that death was immediately caused by the inhalation of a large quantity of the vapor of chloroform, administered in a cone, placed over the respiratory openings. Drs. Williams and Donlin, who made a post-mortem examination of Rice, have testified to an intense and general congestion of the lungs as a result of this inhalatin, due to the alleged intensely irritating character of the vapor of the chloroform, and they have also testified that such pulmonary congestion is positive evidence of death from chloroform or the inhalation of some intensely irritating vapor or gas.

Without discussing the possibility of a cone remaining over the mouth and nose of a person not already in a condition of insensibility, the cone not being forcibly held in such situation by another person, or the possibility of causing a person to pass from a natural sleep to a condition of chloroform narcosis without awakening or struggles, the following facts have an important bearing on the question under consideration.

"It is the universal opinion of authorities that the vapor of chloroform is but slightly irritating to the respiratory passages. Irritation produced in the air passages by its inhalation is very slight.' (Hare, 'Practical Therapeutics,' Philadelphia, 1897, Page 142.) In the legitimate use of chloroform to produce insensibility to pain the very first struggles are due to a sense of suffocation then follows a stage of ex-

citement, frequently with vigorous muscular movements, and then the stage of insensibility.

CHLOROFORM DEATHS RARE.

"The proportion of deaths from choloroform in legitimate practice is very small, being variously stated as 1 in 1,500 to 1 in nearly 6,000; so that it is hardly probable that any one person can have had any considerable experience in such accidents; but the recorded instances of accidental deaths from chloroform inhalation have been made a subject of careful study by competent experts and authorities.

"Many experiments also have been made on the lower animals, especially dogs. The cause of death from chloroform inhalation are even somewhat obscure, and concerning them there is still much difference of opinion, Lauder, Brunton, Chairman of the second Hyboradad Commission, as the result of a large number of experiments on dogs, came to the conclusion that death was due to arrest of respiration. Other high authorities attribute death to failure of the action of the heart, and others to vaso-motor paralysis or paralysis of the small arteries which supply blood to the capillary system. It is certain that in some cases respiration is arrested before the heart ceases to beat, and in other cases the heart fails before respiration is arrested.

"The following is the mechanism of arrest of respiration in chloroform narcosis: General insensibility is first abolished, the subject becoming insensible to pain; at the same time or very shortly after the power of voluntary motion disappears; finally, when death occurs, the respiratory nerve centre which presides over the movements of respiration is invaded and paralyzed when respiration ceases, the heart continuing to beat until it becomes paralyzed from overdistension. Patients are, however, often restored by persistent and efficient artificial respiration.

THE HEART ACTION.

"In death from failure of the circulation of the heart becomes more and more feeble in its action, until it ceases to beat, respiration continuing for a short time after. The best opinion as to the cause of the heart failure is that the chloroform circulating in the blood has a direct paralyzing action on the heart muscle and its contained ganglia. A small quantity of chloroform injected into a vein will promptly paralyze the heart. (H. C. Wood, 'Materia Medica and Therapeutics,' Philadelphia, 1880, Page 288.)

"Those who hold the opinion that death from chloroform inhalation is due to vaso-motor paralysis, base their views largely on the fact that there is in chloroform narcosis an enormous reduction of blood-pressure; that this is due to the paralysis of the small arteries and not primarily to enfeeblement of the heart; that the blood flows freely into the capillary system, which is several hundred times as capacious as the arterial system, where it remains and the subject dies as it were from hemorrhage. (Hare, "Practical Therapeutics," Phil., 1897, page 144).

"These three different opinions are of great weight. My own opinion is a sort of compromise. I think there are cases of death from paralysis of the respiratory centre; other cases of death from direct or primary paralysis of the heart muscle; and that vaso-motor paralysis, greater or less in degree, is a contributory cause in many, if not in all cases, and may be a primary cause, paralysis of the heart being secondary.

"As to the question of the general congestion of the lungs as an evidence of death from chloroform inhalation, as a matter of fact no from the cause. To quote from H. C. Wood, one of the highest authorities on this subject in any country: 'The recognition of chloroform as a probable cause of any death cannot be based upon the post-mortem appearances. Indeed the latter are of no value in deciding such a question.' (H. C. Wood, op cit., Page 292.)

ACTION OF CHLOROFORM.

"The peculiar and characteristic odor of chloroform, however, is very persistent about the person, the clothing and the room in which it has been used, and usually is not dissipated for several hours, even after free ventilation. An odor of chloroform about the person, bedding or room in a case of sudden death could naturally lead to suspicion that chloroform had recently been used for some purpose.

"General, universal or co-extensive intense congestion of the lungs might possibly be produced by the inhalation of a highly irritating vapor; such as ammonia; but it is rare except in cases of sudden death from pulmonary oedema.

"Probable Cause of Death.—The question of probable cause of death in the case of Rice is certainly one of scientific interest; but this is almost entirely academic, inasmuch as there is as yet no sufficient evidence of death from poisoning, either by mercury or chloroform; and the defense does not appear to be called upon to prove a cause of death from the meagre data afforded by the incomplete and unscientific post-mortem examination. It seems to me, however, that the clinical history of the case, taken in connection with the results of the post-mortem, such as they are, indicates a cause of death that is reasonably certain.

"Assuming that the age was 84 or 86; that Rice had been an invalid for many months, was feeble, emaciated and anaemic; that he presented aedema (dropsy) of the lower extremitis as far up as the knee, which had existed for several months; that he had the degree of arterio-scelerosis common to persons of his age; that his kidneys were not normal, presenting some arterio-scelerosis; that after death was congestion over both lungs completely; that, a few days before death, he had an attack of syncope with difficult respiration, from which he promptly recovered; and that his life terminated in a suddenly fatal attack of syncope—assuming all these conditions, it is reasonably certain that he died from sudden and extensive pulmonary oedema.

"This opinion is strengthened, if it is assumed that there was narrowing at the orifice of the aorta and pulmonary artery. It is still further strengthened if it is assumed that he had delirium some days before death or any other evidences of uremia. But, judging from the post-mortem appearances of the lungs alone, the oedema of the lower extremeties, the rapid pulse and shallow respirations out of proportion in number to the beats of the heart the general feeble condition, the advanced age and the suddenness of the fatal termination, all of which conditions certainly existed, and disregarding other conditions above mentioned, it is still reasonably certain that the immediate cause of death was oedema of the lungs, not produced by any poisonous agent or by external violence."

THE DISMISSAL OF THE INDICTMENTS AGAINST PATRICK, MEYERS AND SHORT.

At a Stated Term of the Court of General Sessions of the Peace, in and for the City and County of New York, held at the Criminal Court Building, on June 13th, 1910.

Present:

HON. EDWARD SWANN,
Justice.

The People of the State of New York
against
Albert T. Patrick,
Defendant.

It appearing to the Court that on May 16th, 1910, on the petition of Morris Meyers and David L. Short, and on motion of John C. Tomlinson, Esq., attorney for said Meyers and Short, who were co-defendants

and joined with this defendant, Albert T. Patrick, in some or all of the hereinafter described indictments, that each and every one of said indictments were dismissed as to said co-defendants, Short and Meyers, on motion of the said attorney for said co-defendants, the District Attorney of New York County not opposing said motion, and that the same evidence would be required to convict this defendant in said cause as would be required to convict his co-defendants, Short and Meyers, and the District Attorney having certified in his recommendation for the dismissal of said indictments, that there was not sufficient evidence to probably secure a conviction on any of said indictments:

NOW, on motion of William L. McDonald, Attorney for Albert T. Patrick, defendant, duly made in open Court, the District Attorney having due notice of said motion and not opposing same, and upon reading and filing the petition and motion of said Patrick, by his attorney William L. McDonald, verified the 9th day of June, 1910, it is

ORDERED, that each and all of the following indictments now pending and undetermined in this Court against the defendant, Albert T. Patrick, or jointly charged with said Short and Meyers, or either of them, or with other parties, be and the same are hereby finally dismissed, said indictments being described as follows, viz:

(1) No. 34,897, The People v. Albert T. Patrick, indictment for forgery in the second degree, filed May 2, 1901.

(2) No. 34,894, The People v. Albert T. Patrick, indictment for forgery in the second degree, filed May 2, 1901.

(3) No. 34,896, The People v. Albert T. Patrick, indictment for forgery in the second degree, filed May 2, 1901.

(4) No. 34,901, The People v. Albert T. Patrick, Morris Meyers and David L. Short, indictment for forgery in the first degree, filed April 25th, 1901.

(6) No. 34,903, The People v. Albert T. Partick, Morris Meyers and David L. Short, indictment for forgery in the second degree, filed April 25th, 1901.

(7) No. 34,903, The People v. Albert T. Patrick, Morris Meyers and David L. Short, indictment for forgery in the second degree, filed April 25th, 1901.

(8) No. 34,904, The People v. Albert T. Patrick and David L. Short, indictment for forgery in the second degree, filed April 25th, 1901.

(9) All, any and every other indictment against Albert T. Patrick, alone, or said Patrick jointly with said Meyers and Short, either or both of them, or severally or jointly with any other person persons whatever, for forgery, in any degree, found by the Grand Jury of New York County against said Albert T. Patrick, alone, or jointly with said Meyers and Short, or either of them or any person or persons whatsoever, arising out of or incidental to any of his or their actions of or concerning the Estate of William M. Rice, who died in New York City, on September 23d, 1900, whether or not said indictments, if any such are in existence, are herein specifically set out and described by members, date of filing, offenses, etc.

Enter
Edward Swann.
J. C. C. B.

COURT OF GENERAL SESSIONS OF THE PEACE

Of the City, County and State of New York, in and for the County of New York.

I certify that the annexed is a copy of a certain order now on file in the Clerk's office and that the same has been compared by me with the original, and is a correct transcript therefrom, and of the whole of said original.

Chief Clerk.
EDWARD R. CARROLL,

APPLICATION AND MEMORIAL OF MEDICO-LEGAL SOCIETY FOR UNCONDITIONAL COMMUTATION OF THE SENTENCE OF ALBERT T. PATRICK.

* *
* In the matter of the application of the Medico-Legal Society for *
* an unconditional commutation of the sentence of ALBERT T. *
* PATRICK, now serving a life sentence for the alleged murder of *
* William M. Rice, as a proper and convenient means, of rectifying *
* a miscarriage of justice, and terminating an illegal imprisonment, *
* for an alleged crime of which he is innocent. *
* *

Application by the Medico- Legal Society of New York, an incorporation duly organized pursuant to the provisions of an act of the legislature, entitled "An Act of Benevolent, Charitable, Scientific and Eleemosynary, Societies, organized on June 20, 1868, by Clark Bell, Esquire, its attorney, acting under the direction of the Society through its select committee, of which Clark Bell, Esquire, is chairman.

To His Excellency, Hon. John A. Dix,
The Governor of the State of New York:

Honored Sir:

The Medico-Legal Society has the honor to submit by Clark Bell, Esquire, its attorney, a memorial and application for an unconditional commutation of the sentence of Albert T. Patrick, now serving a life sentence for the alleged murder of William M. Rice, as a proper and convenient means of rectifying a miscarriage of justice, and terminating an illegal imprisonment for an alleged crime of which he is innocent.

First: The Select Committee of the Medico-Legal Society, by Clark Bell, Esquire, its attorney, respectfully submits a copy of the Constitution and By-Laws of the Medico- Legal Society, which shows the scope of authority and the general work of the said society, and whose principal office and place of business is at No. 39 Broadway, New York City.

Second: That this application is made by the Select Committee under the authority and direction of the Body.

Third: A certified copy of the record of his conviction on the indictment of murder in first degree upon one, William Marsh Rice, has been filed in the Executive Chamber by the Medico-Legal Society, which shows that the said Albert T. Patrick was sentenced to death on April 7th, 1902, and that the said Patrick is now confined at the State Penitentiary at Sing Sing, under the commutation of sentence made by Governor Higgins, your predecessor.

Fifth: That upon information and belief, derived from the said Albert T. Patrick, your petitioner alleges that the said Patrick was formerly convicted of carrying a pistol in Houston, Texas, and fined $25.00 by the judge before whom he was then tried, for that offense which was paid and that he has never been convicted of any other offense.

Sixth: That respecting the innocence of the said Albert T. Patrick of the crime for which he was charged and convicted, the Medico-Legal Society has on two separate occasions approved by unanimous action of the Reports of its Select Committee duly appointed by the society, of which A. P. Grinnell, M.D., was chairman of one, composed of physicians, lawyers, jurists and chemists, members of the Society of eminence and distinction, entirely disinterested, and Professor Howard S. Eckels, of the School of Embalming of Philadelphia, Chairman of the other, composed of physicians, chemists and embalmers of eminence and distinction, each committee having made careful and thorough investigations and examinations and carefully reading and considering the evidence from the printed case, which was used before the Court of Appeals, of New York, on the appeal from the judgment of conviction and on the motion

denying the defendant's motion for a new trial, each of which said committees found, reported and determined that the death of Rice was due to natural causes, and that the said Rice did not die by poisoning from chloroform, as will fully appear from the said reports and the evidence used in the case used before the Court of Appeals, careful and correct copies of which will be laid before Your Excellency on the hearing of this motion, and which have already been filed in the Executive Chamber in December, 1910, to which reference is now and hereby made, for an exact and detailed statement of the facts, and of which duplicates will be furnished to your Excellency, if you deem it necessary or proper so to do, as to an and all the facts claimed.

Seventh; That on the 30th day of November, 1910, at a regular meeting of the Medico-Legal Society, where the opinion of the body was asked as to whether any doubt remained as to the innocence of Albert T. Patrick, and a vote was taken after a discussion and the Society voted by unanimous action that in the opinion of the Society, the said Albert T. Patrick was innocent of the crime for which he was charged, tried and convicted, a copy of which action is now on file in the Executive Chamber at Albany, and a duplicate of the same will be furnished to your Excellency, if desired or deemed avisable.

Eighth: That this application is made with the full knowledge and approval of the said Albert T. Patrick, made in writing the original of which is on file in the Executive Chamber at Albany, and a copy of the same will be furnished duly verified to Your Excellency if desired or deemed proper.

Ninth: That the Select Committee of the Medico-Legal Society, acting under the authority and direction of the body, at its session of January 27th, 1911, sent out an appeal to the Public, the Bar and the Medical and the Embalming Profession and the Public Press, of which a copy is hereto annexed, signed by Clark Bell, Chairman, together with a copy of the extract from the minutes of the Medico-Legal Society of January 27th, 1911, which is also hereunto annexed, and that the allegations and statements contained in the said appeal were true to the best of the knowledge information and belief of the members of the select committee.

Tenth: That your committee offer to have a human body embalmed by the right brachial artery, in the same manner that the body of William M. Rice was proven to have been embalmed on the trial of Mr. Patrick for the purpose of demonstrating as a fact within the knowledge of embalmers, that the embalming fluid does and did in fact enter the lungs of William M. Rice, before your Excellency or before any competent embalmer that you may select for that purpose, and the committee has already completed arrangements to make such a demonstration at the City of Albany, at St. Andrews Hall, corner of Howard and Eagle streets, Albany, at the semi-annual meeting of the New York State Embalmers Association on the 19th and on the 20th of April, 1911, to be conducted by C. P. Moadinger, Jr., ex-President of that body, and leading lecturer and demonstrator of the City of Brooklyn, and at which meeting you are invited to be present in person, if possible, and if impossible, by such proxy, as you deem competent and upon whom you can rely.

Will Your Excellency advise the attorney for petitioners, whether any other or additional statement or preliminary requirement is necessary, to give you full control and jurisdiction of the case, and will Your Excellency please name a date at which the Medico-Legal Society can lay before you the petitions of physicians, embalmers, jurists, chemists, scientists and citizens which it has invited to sign and return to the society for that purpose, and for which applications have been sent out during the last week, and which are now being sent out, but of which a large number have already been received?

Very respectfully,
THE MEDICO-LEGAL SOCIETY,
by Clark Bell, Esquire,
Attorney and Chairman of
The Select Committee.

TOXICOLOGICAL.

REPORT OF THE SELECT COMMITTEE ON EMBALMING AND THE LEGAL PREVENTION OF THE USE OF POISONS IN EMBALMING FLUIDS.

New York, December 19, 1906.

To the Medico-Legal Society:

The Select Committee of the Medico-Legal Society, to whom was referred the subject of the Legal Prevention of the Use of Poison in the Embalming Fluid by Embalmers, or others, submit their Report:

We have considered the extracts from the inaugural Address of Hon. Clark Bell, President of the Society; the address of H. S. Eckels, of the Philadelphia School of Embalming; the paper contributed by President Bell of the International Congress on Anthropology at Turin; and the literature and discussions which the subject has aroused. We have considered the recent legislation on the subject in New Jersey, New Hampshire, and the law adopted by the legislature of Michigan, Act. 13, Laws of 1903, and the recent contribution of President Bell on the subject.

We have consulted the great body of embalmers of the nation and many of the officials of the prominent State bodies of Undertakers, Embalmers and Funeral Directors through the Chairman of this Committee, who has devoted the most of his time, since the June meeting of the Medico-Legal Society, in meeting the leading embalmers of the States of the Northwest and on the Pacific Coast in the study of the science of embalming the dead, in the principal cities.

Your committee report that:

The following extracts from the Inaugural Address of President Bell describe correctly the condition of affairs until within a recent period at the time he spoke, in January, 1906.

LEGAL PREVENTION OF THE USE OF POISON IN EMBALMING FLUIDS BY UNDERTAKERS AD OTHERS.

"Embalming of dead bodies, as practiced by undertakers for the past twenty-five or thirty years, has prevented the detection of crime committed by those who have killed their victims by poison."

"Every poisoner could, by having the cadaver filled with the ordinary embalming fluid containing arsenic, (usually done before a post-mortem could be held) defy detection, and be certain to put his crime beyond the reach of punishment by law."

"There is no means yet known to science by which arsenic administered by mouth or rectum, which produced death, could be detected or discriminated from the arsenic contained in the embalming fluid used by the undertaker—which had been absorbed by the dead body by inhibition or from the injection in the abdominal cavity and into the vascular system."

It is now demonstrated that a perfectly sure, safe and reliable embalming fluid can be made without the dangerous use of arsenic or any poison or ingredient that would interfere with the detection of crime.

"Years ago I submitted this question to the chemists of the world, and the answer was unanimous, that when the embalming fluid containing poison had been injected into the body after death, the crime of the poisoner could not be traced to, or fixed upon him, by any means known to chemistry, or its related aids, the microscope, bacteriological research or otherwise."

"We have yet to come to the hour when the clear eye of science can discriminate between the arsenic administered in life which has caused death, from that which the poisoner had directed the undertaker to inject into the body."

Respecting legislation your Committee report:

That science can, and does now affirm, that the safest, the most effective and successful embalming fluid need contain no organic poison commonly used by the poisoner.

That, while laws to prevent the use of poison by the embalmer in the fluid used for the preservation and embalming of the bodies of the dead may be found to be necessary in certain sections, the present and existing consensus of public opinion among embalmers in favor of the use of fluids, which do not contain poisons that would interfere with the detection of crime, is now so universal among all embalmers of repute, that the reform sought for by the Medico-Legal Society will be attained in the near future, by the intelligent and wholesome action of that profession in remedying the evil and enforcing it by the stronger and higher law of Public Opinion, rather than by legislative enactments—except in exceptional instances and in isolated districts.

That the use of poison in the embalming fluid used by undertakers or embalmers in the preservation of the bodies of the dead, where crime had been committed, does and would prevent the discovery of poison, by the chemist or by means now known to science.

That the use by embalmers of a fluid which contains poison that would thus interfere with the scientific detection of crime interferes with the legitimate work of Coroners, Coroners' Physicians and other officers of the law, and with physicians who hold the autopsies upon the bodies of the dead for the purpose of determining the cause of death, and also with the analytical chemists in the discharge of their duties to ascertain whether the death is due to natural causes or whether there is reason to suspect that a crime has been committed.

We report ,That the Medico-Legal Society recommended laws against the use of embalming fluids by undertakers or others upon the bodies of the dead, which interfere with the detection of crime by chemical or other scientific tests.

EMBALMING.

We report, That the custom and practice of embalming the dead by undertakers or embalmers which is coming into almost universal use, is in every way proper and commendable, because

1. It produces better sanitary conditions and
2. It prevents the spread of communicable diseases, and
3. It in many cases produces a better appearance of the dead for funeral purposes, and is more desirable to the public at large for that reason.

That this Society approves of embalming the bodies of the dead where the use of poison is eliminated from the embalming fluid used.

Your Committee concurs in, approves of, and adopts the language of the Chairman of this Committee, Prof. H. S. Eckels, in his address to the Society:

"Be it resolved, That the Committee of the Medico-Legal Society appointed for this purpose, secure the co-operation of the many city and county coroners to permit during the summer months the embalming of the dead by the undertaker who has charge of the body, providing said undertaker and embalmer use only such fluids as do not contain poisons which interfere with the detection of crime in all such cases where the Coroner's physicians for any reason were unable to examine into the cause of death of said person within twelve hours after the death of such person, during the months of April, May, June, July, August and September, and twenty-four hours after death during the months of October, November, December, January, February and March."

That the use of poison in the embalming fluid is no longer necessary for the proper embalming and preservation of the dead body.

We believe that the National and State Organizations of Embalmers and Funeral Directors would now be willing to co-operate with the work of the Society favoring the elimination of poisons in embalming fluids, and that this Society invite their co-operation to that end.

We have presented a Preliminary Report—our views as to embalming by the right brachial artery, in its relation to a case now pending before

the Governor of the State of New York in an application for full pardon of one condemned to death on medical testimony, given on the trial, that the embalming fluid did not and could not enter the lungs where the body of the deceased was embalmed by the right brachial artery.

The Chairman of this Committee on August 9, 1906, conducted a complete and indisputable demonstration in the City of New York before a large body of embalmers, on a body embalmed as the body of the dead in that case was sworn on the trial to have been done, in which the embalming fluid was shown to have entered and suffused the lungs. Our views are expressed in Resolutions submitted in our Preliminary Report which relate to that case and demonstrate the innocence of the accused.

Respectfuuly submitted,

PROF. H. S. ECKELS, Chairman,
School of Embalming
Philadelphia, Pa.

PROF. CHARLES A. GANUNG,
Lecturer on Embalming,
Waterloo, N. Y.

J. F. MARTIN, ESQ.,
New Jersey State Association of
Funeral Directors,
Elizabeth, N. J.

JOHN MAAS, ESQ.,
State Association of Embalmers,
Louisville, Ky.

Geo. B. MILLER, M. D.,
Late Chemist Medico-Legal Society,
Philadelphia, Pa.

CHARLES F. MOADINGER, ESQ.,
N. Y. State Embalming Commission,
Brooklyn, N. Y.

WM. J. PHILLIPS, ESQ.,
Secretary New York State Board of
Embalmers,
Albany, N. Y.

CHARLES W. SPRINGER, ESQ.,
New Jersey State Association of
Funeral Direstors,
Englewood, N. J.

Unanimously approved and adopted by the Medico-Legal Society, December 19, 1906.

CLARK BELL,
President.

EXHIBIT A.

PRELIMINARY REPORT OF THE SELECT COMMITTEE OF THE MEDICO-LEGAL SOCIETY ON EMBALMING BY THE RIGHT BRACHIAL ARTERY IN ITS RELATION TO THE CASE OF ALBERT T. PATRICK.

To the Medico-Legal Society:

Your select Committee on Embalming by the Right Brachial Artery after a full and careful examination of the whole subject; and of the papers and evidence; and the result of our best judgement, report and recommend the adoption by the Medico-Legal Society of the following Resolutions:

Resolved, That when a body is embalmed by the right brachial artery, in the manner that the body of Rice is shown by the evidence to have been embalmed, the embalming fluid does, and must of necessity enter, and suffuse the lungs, of the person embalmed.

Resolved, That this is not a matter of opinion, but is a demonstrative

fact within the personal knowledge, and experience, of every practical embalmer, in the land.

Resolved, That it must be conceded as a fact, that the public demonstration on August 9, 1906, of embalming a human body, in the City of New York, in West 23d Street, under the supervision and direction of the Chairman of this Committee; before the Assembly of embalmers; the embalming fluid was seen, and shown, to enter and permeate the lungs by every person present.

Resolved, That it is the judgement of this body that this incident was an absolute demonstration; that the fluid does enter the lungs of a dead human body thus embalmed; and was a scientific demonstration of an absolute fact, that the question is entirely outside of the domain of the opinion of experts, and is a simple question of fact, conceded and known to all embalmers who have personal knowledge of the methods of embalming the dead.

Resolved, That after a careful examination of the whole case of Albert T. Patrick, the evidence before the Court of Appeals, the evidence of the medical witnesses and others given before the jury who condemmed Patrick, that the embalming fluid could not and did not enter the lungs of Rice, we are of the opinion that the medical witnesses who swore in the case that embalming fluid did not enter, and could not enter, the lungs of Rice, were giving testimony upon a subject concerning which they had no knowledge or practical experience.

That their evidence misled that jury, and that the scientific demonstration of August 9, 1906, at New York City, before the body of practical embalmers, was a complete and absolute scientific demonstration of the innocence of Albert T. Patrick of the charge of which he was convicted.

Resolved, That the Medico-Legal Society memorialize the Governor of this state and the Governor-Elect that in the opinion of this body Albert T. Patrick is innocent of the murder of Rice.

That Rice died from natural causes, and Patrick should have full pardon by the Exectutive.

Dated, December 19, 1906.

Prof. H. S. Eckels, Chairman, School of Embalming, Philadelphia, Pa.; Prof. Charles A. Genung, Lecturer on Embalming, Waterloo, N. Y.; J. F. Martin, Esq., New Jersey State Association of Funeral Directors, Elizabeth, N. J.; John Maas, Esq., State Association of Embalmers, Louisville, Ky.; Geo. B. Miller, M. D., Late Chemist Medico-Legal Society, Philadelphia, Pa.,; Charles F. Moadinger, Esq., N. Y. State Embalming Commission, Brooklyn, N. Y.; Wm. J. Phillips, Esq., Secretary New York State Board of Embalmers, Albany, N. Y.; Charles W. Springer, Esq., New Jersey State Association of Funeral Directors, Englewood, N. J.

Unanimously approved and adopted by the Medico-Legal Society, December 19, 1906.

CLARK BELL, President.

DISCUSSION OF THE PAPER OF CLARK BELL, ESQ.,

On Embalming by the Right Brachial Artery.

Response to the questions:

(a) Does not the fact that the embalming fluid did and must have entered the lungs of William M. Rice demonstrate the innocence of Albert T. Patrick of the crime for which he was tried, convicted and sentenced to death?

(b) Did not the medical evidence given by the State show that the embalming fluid could not enter the lungs, mislead both court and jury, and was not the result a clear miscarriage of justice?

By Clark Bell, Esq., L.L. D., of New York.

Response of Prof. H. S. Eckels, of the School of Embalming.

Philadelphia, Pa., April 23, 1911.

Hon. Clark Bell, Esq., Chairman Special Committee, 39 Broadway, N. Y.

Question 4—a: A half gallon of Falcon embalming fluid injected into the right brachial artery of a human body forces the blood in the arteries through the Capillaries into the veins to the chambers of the right side of the heart (the right auricle and the right ventricle). The evidence of this circulation may be seen in any autopsied body by the time a single pint of fluid has been injected and when four times this quantity is injected in this manner not oniy is the blood from the vessels throughout the body forced into the pulmonary circulation which terminates in the lungs but it produces a congestion of blood and embalming fluid in the lungs.

This is the natural circulation of the blood in life and it is the only course for it and the embalming fluid injected in the arteries to follow after death. There is no other way for the circulation of the embalming fluid to occur.

I have witnessed this circulation many times and again on Wednesday, April 19, at St. Andrew's Hall, Albany, N. Y., when a body was embalmed in the presence of a large number of members of the New York State Embalmers' Association assembled there in convention, all of whom witnessed this same demonstration.

One-half gallon of Falcon embalming fluid was injected into the right brachial artery of an aged man while an autopsy was made exposing the lungs which became distended with blood and embalming fluid which had reached there by both the pulmonary and the systemic circulations.

A longitudinal incision was made in the anterior lobe of the right lung and immediately there occurred a leakage of blood and fluid from the ruptured blood vessels and cells of this lung tissue, showing that the pressure of the fluid injected into the right brachial artery produced the congestion of the lungs. Upon further injection of fluid in the right brachial artery copious leakage from the lungs immediately followed. Had this incision not been made further congestion would have been the result.

Question 4—b: The medical evidence given by the State that the embalming fluid could not enter the lungs could not do otherwise than mislead both the Court and the jury.

Such statement was contrary to the facts which have always been known by the embalmers who have any knowledge of circulation and anatomy.

Every practical embalmer in the United States and elsewhere who knows about the circulation of the blood and fluid in the dead human body knows that the lungs become congested from the blood and embalming fluid by injecting the arteries with embalming fluid.

The congestion of the lungs occurring from the injection of a half gallon of embalming fluid into the right brachial artery would change the lungs to so great an extent that it would be absolutely impossible to form any logical or accurate conclusion regarding whether any congestion had existed from any other cause.

Yours very sincerely,

H. S. ECKELS.

RESPONSE OF GEORGE B. MILLER, M.D.,

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634 Diamond Street, Philadelphia.

Dear Mr. Bell:— April 24th, 1911.

Enclosed find analysis and discussion of the medical testimony in the Patrick case. Am sorry I would not be be able to be present Wednesday evening. With kindest regards,

Sincerely,

G. B. MILLER.

DISCUSSION OF THE MEDICAL TESTIMONY IN THE PATRICK CASE.

By Dr. George B. Miller.

(a) In contra-distinction to the medical testimony offered at the trial of Albert T. Patrick, that it was impossible for the embalming fluid injected into the right brachial artery to enter the lungs; the practical demonstration of embalming a dead human body on August 9, 1906, in New York City, where it was visibly demonstrated and proven to a large body of embalmers from all parts of the United States, that fluid so injected flowed into the lungs, unequivocally established beyond a peradventure of a doubt the fallacy of the trial testimony.

(b) Every embalmer knows where the embalming fluid goes when he inserts the canula into the right brachial artery, and with his syringe starts preservative fluid on its journey. Invariably, he states, "It goes to the lungs, if it does not go there, where does it go?" Some of it must go to these organs or the body will quickly undergo decomposition. The fluid traverses the same anatomical channels, the blood, both arterial and venous, pursued during life. If you would be comfortable and sure of your embalming try the old trick; cut the inner side of the big toe and see it spurt or trickle from the digital artery. Another action takes place before the fluid reaches the lungs. Mechanically the blood in the arteries, viz., Brachial, Axillary and Subclavian, etc., by presure is forced into the thoracic and abdominal viscera, and as the lungs occupy nearly all of the former cavity, these are intensely engorged and congested, co-extensive congestion. This is exactly what an embalming fluid under pressure would produce.

(c) Also arrayed against and attacking the trial expert evidence, is the condition of the lungs found at autopsy, in the recent case made by Drs. Larkin, P. F. O'Hanlon, and Timothy Lehane, coroners' physicians upon the body of Giovanni Ferrari, of 331 East 106th Street, New York City, killed by chloroform.

The post-mortem exanmination revealed, "None of the co-extensive congestion which was found in the lungs of Mr. Rice. Parts of the lungs, and large parts were normal."

(d) The world has never produced the equal of our H. C. Wood in his masterly and classical studies of the physiological action and toxicological effects of the medicanal and lethal agents.

Now make a mental note of the value this authority places upon the after-death picture of chloroform poisoning. He says: "The recognition of chloroform as the probable cause of any given death can not be based upon the post-mortem appearances. Indeed the latter are of no value in deciding such a quesion."—(Theraeutics, its Principles and Practice. 12th edition. Page 99. H. C. Wood, M.D., LL. D.)

"Chloroform is a distinct depressant and paralyzant of the heat-muscle or its contained ganglia."—Wood.

Ether death takes place by asphyxia following paralysis of the respiratory centres.

(e) Again, there was ample proof of the existence of more than sufficient progressive clinical symptoms, etc., during the latter end of Rice's life to warrant its speedy termination. Death could be clearly due to natural causes and was not unexpected.

The entire Patrick case as then presented to Judge and Jury, clearly rested upon the important fact as to whether Mr. William Marsh Rice did or did not meet his death from chloroform.

The foregoing physiological and pathological data and clinical facts enumerated, demonstrate the innocence of Albert T. Patrick of the crime for which he was tried, convicted and sentenced to death and reveal extremely misleading and faulty medical testimony offered at the trial and absolutely disprove the death of Rice by this method.

(To be Continued.)

THE ENGLISH COURT OF CRIMINAL APPEAL.

Corresponding Member of the Medico-Legal Society.

By W. H. S. Monck, of the Dublin Bar.

In reply to the request of the Medico-Legal Society to furnish a brief statement of the work of the New English Court of Criminal Appeal.

I have to report that it does not extend to Ireland. It is going on fairly well. It has quashed many verdicts and sentences, on the ground of irregularity or unfairness in the trial; but when no unfairness or irregularity is proved it refuses to disturb the verdict even when there is new evidence. However I do not think that in any of the recent cases the new evidence has been very cogent. I cannot say that there has been a proper case for a new trial upon the ground of newly discovered evidence, not known to the defence, which would clearly show that the verdict of the Jury or the decision of the Court would have been otherwise and it was perfectly clear that the new evidence, would have justified a Jury in rendering a contrary verdict to that which was rendered, or that in any such case the application has ever been denied by this tribunal.

A curious circumstance is that a majority of the cases, have been decided by the minimum number of Judges, and the Judges not of the highest reputation on the Bench. I suspect that the Chief Justice was not anxious to make binding precedents, until the Judges had acquired some experience in dealing with appeals, but the general result seems to be that the prisoner must have a fair trial; and if the trial was fair the verdict must stand.

The Court would not hesitate to set aside a verdict if on a full hearing it appeared clear that the defendant had not had a fair trial.

DRUNKENNESS AS A DEFENCE FOR HOMICIDE.

By Clark Bell, Esq., LL.D.
New York.

The recent commutation of the sentence of death passed upon John Wynne, at Honolulu, Hawaii, by President Taft, is of great public interest.

Wynne was convicted of murder of the third enginneer of the Steamship Rosecrans, in the harbour of Honolulu, while intoxicated.

The action of President Taft in this case is of very great public interest.

The severity of the dicta of the Common Law of England, that drunkenness could not be urged as a defence for crime, has stood undisputed for centuries.

It was peculiar to this class of cases, but where a man was so drunk at the time of the act as not to be conscious of his act, it seemed to lack that element which stands at the very foundation of crime *"intention."*

How can a man dead drunk premeditate?

How could it be said to be with malice aforethought?

The Scotch Judge who tried a boy dead drunk, who had killed his intimate friend and companion in a drunken brawl and fight, actually without being conscious of his act and of course not being capable of considering it at all was held to be under the law and drunkenness no defence.

Norman Kerr, who was at the head of the English scientists and an authority on inebriety, may have been said to have been instrumental,

more than any other man of his time, in softening the harshness of the old rule.

Kerr asserted that inebriety was a disease and must be so regarded and treated, and must be so considered.

Like insanity, he decided that we apply the same issues and tests that we would in insanity cases.

If the man understands the nature, character and the consequences of the crime, he was responsible, provided that he was not the victim of a delusion that dominated his action.

Could this reasoning and this test be applied, to the man so unconsciously drunk, as not to know at all what he was doing?

The question of intent, of premeditation, was out of the case, but under the old rule it was not a defence.

The evolution of judicial thought and decision was shown even in England; at that time there was no appeal from a verdict in a murder case.

The decision of President Taft is in exact accord with what the writer believes is the law of our country at this moment.

We think it will be acceptable to our courts and judges as the correct and actual state of the law.

The President of the United States is of a judicial temper. He is a very competent jurist, and an excellent judge.

Dr. Norman Kerr helped to make this decision, regarding and studying inebriety and taking it up on its pathological and its scientific side.

Like insanity it had to be subject to the same standards and same tests.

The language of President Taft is "Drunkenness is no excuse for crime, but it may be inconsistent with a state of mind necessary to constitute a certain degree of crime."

It is a step forward and upward in the elementary principle involved in the law on its evolutionary side and in accord with our growth in the science of law.

(From advance sheets of the Alienist and Neurologist, of St. Louis.)

RECALL OF JUDICIARY A "NOSTRUM"

(From an Address by Hon. Wm. H. Taft, President of the United States, at the Academy of Sciences, New York.)

The statistics which show the crimes that go unpunished in this country as compared with those in England are startling and humiliating to any son of America who has pride in his fellow-countrymen as a law-abiding and law-enforcing people. A study of the English system will show that their procedure and their guarantees in favor of the individual as to indictment, trial, and conviction, and their provision for the security of the liberty of the individual are exactly the same as ours; for we derive ours from them. Our bills of right, both in Federal and State Constitutions are simple copies limitations found in the Magna Charta, the petition of right and the bill of rights, which are part of the British Constitution.

Wherein is the great difference then between the effectiveness of the course of the trial for the saving of time and the simplification of the ing of the Judges, in the power which they maintain and exercise in the two systems? I believe it to exist in the character, experience, and learn- issues, and in the respect and obedience given to their intimations from

the bench as to the proper behavior of counsel in the conduct of the case. If there is any other reason for the difference it cannot be found in procedure.

It must be found in the lighter regard for law and its enforcement on the part of our people as a whole and a consequent less rigorous public opinion in favor of the punishment of crime, which relieves prosecuting officers and Grand Juries from the highest standard in this regard, and which finds its way into and exerts its influence in the jury panel during the trial and in the jury room during the consideration of the verdict.

I wish to comment on the effect that the change in the power of the Judge in this country in the matter of the management of the trial has had upon his ability to shorten the methods of counsel for defense and their conduct in the courtroom. One of the strongest influences for looseness in original trials, in my judgment, has been the presence of lawyers in our Legislatures who have sought to abate and limit by statute the power of the Judges and to take away from them this source of respect for their rulings which is so apparent in every English court of justice.

What I believe to be an unfounded fear of judicial tyranny and an unreasonable distrust of judges have led to statutory limitations upon their power in the conduct of criminal trials, which have made the trial by jury in this country, and especially in the Western States, an entirely different institution from what it was understood to be at the time of the adoption of our Constitution.

In many States Judges are not permitted to comment upon the facts at all. They are not even allowed to charge the jury after the argument of counsel, but they are required to submit written charges to the jury upon abstruse questions of law, with no opportunity to apply the principles concretely to the facts of the case, and with the result that the questions, both of law and fact, are largely left to the untutored and undisciplined action of the jury, influenced only by the contending arguments of counsel.

The restraint that a Judge in the course of a trial imposes upon the manner and conduct of counsel in an English court is thus wholly wanting, with the result that there seems to have been a substantial change in the code of professional ethics governing counsel, and in the extremes to which counsel in the defense of their clients seem to think it is entirely proper for them to go. Their conduct makes neither for the dignity of the court, for the elevation of the ethics of the bar, for the expediting of criminal procedure, nor for the reasonable punishment of crime.

And now, not content with reducing the position of the Judge to one something like that of the moderator in a religious assembly, or the presiding officer of a political convention, the Judge is to be made still less important and to be put still more on trial and to assume still more the character of a defendant by a provision of law, under which, if his rulings and conduct in court do not suit a small percentage of the electors of his continuance on the bench during the term for which he was elected to an election for recall, in which the reason for his recall is to be included in two hundred words, and his defense thereto is to be equally brief.

It can hardly be said, that this proposed change, if adopted, will give him greater authority or power for usefulness or constitute a reform in the enforcement of the criminal law of this country. It will certainly not diminish the power or irresponsibility of counsel for the defendant. Let us hope that the strong sense of humor of the American people, which has so often saved them from the dangers of demagogy, will not be lacking in respect of this "nostrum," which can not be considered a remedy for the disease of laxity in procedure, and those who prescribe it in Arizona, California, or any other State, as a panacea, are lacking in a sensible discernment of the situation, or their diagnosis is based on political expediency and not sound, common sense.

THE REFORM OF PROCEDURE.

ADDRESS BEFORE THE N. Y. STATE BAR ASSOCIATION, JAN. 14, 1911.

By Elihu Root, Honorary Member of the Medico-Legal Society.

Gentlemen of the New York Bar:

The Bench, the Bar, and the public agree that there is undue delay in our judicial proceedings. A considerable number of able and public-spirited lawyers, including several committees of this Association and the local Bar Associations of this state, have addressed themeselves to the work of devising amendments of the law which should make our procedure more swift and certain in reaching the ends of justice. They have made many suggestions of great value looking to changes in the code of procedure. Some of these have been adopted, and there are pending some, the adoption of which would be of material advantage.

It is not my purpose in selecting the reform of procedure as the subject for the remarks which seem appropriate on the part of a presiding officer, to discuss these suggestions or to offer others relating to the details of the code. I wish rather to emphasize the general principle which we will agree ought to control the acts of the state in dealing with this subject. The principle is, that procedure should be made as simple as possible. The fewer statutory rules there are to create statutory rights intervening between a citizen's demand for relief and the court's judgment upon his demand, the better. The more direct and unhampered by technical requirements the pathway of the suitor from his complaint to his judgment, the better. It seems to me that we have reached a point in our practice where the application of this principle requires very thorough and radical action; that mere improvement of the Code of Procedure in its details will not answer the purpose.

The original Field Code of Procedure of 1848 contained 391 sections and was comprised in 169 of the small, loosely-printed pages of the Session Laws of that time. The last edition of our present Code at which I have looked contains 3,384 sections, a large proportion of them dealing with the most minute details. It is doubtless true that some provisions of substantive law have found their way into this enormous mass ot statutory matter, and that some special branches of procedure are covered by the present Code which were not included in the original Code. Nevertheless the comparison between the two statutes reveals plainly the fact that for many years we have been pursuing the policy of attempting to regulate by specific and minute statutory enactment all the details of the process by which, under a multitude of varying conditions, suitors may get their rights.

Such a policy never ends. The attempt to cover, by express specific enactment, every conceivable contingency, inevitably leads to continual discovery of new contingencies and unanticipated results, requiring continual amendment and supplement. Whatever we do to our Code, so long as the present theory of legislation is followed the Code will continue to grow and the vast mass of specific and technical provisions will continue to increase. I submit to the judgment of the profession that the method is wrong, the theory is wrong, and that the true remedy is to sweep from our statute books the whole mass of detailed provisions and substitute a simple practice act containing only the necessary, fundamental rules of procedure, leaving all the rest to the rules of court. When that has been done the legislature should leave our procedure alone.

We may well aid this simplification of procedure by applying the same principle of simplicity to certain changes in the substantive law with a view to making the practical application of the law simple; and, most important of all, we should observe that principle in determining the standards of conduct at the bar.

The condition in which we find ourselves is that, in varying degrees in different parts of the state, calendars are clogged, courts are overworked, the attainment of justice is delayed until it often amounts to a denial of justice, the honest suitor is discouraged, the dishonest man who

seeks to evade his just obligations is encouraged to litigate for the purpose of postponing them. Such a condition is not sporadic and occasional. It is continually recurrent. It is the result of a natural tendency which appears whenever the conduct of affairs in any branch of the social life of man is entrusted to a particular class of men specially qualified for that special work by learning and skill beyond the great body of their fellows. The conduct of such affairs by such a class becomes an art. The art becomes a mystery. Rules and formulas originally designed as convenient aids to the attainment of ultimate ends become traditions and dogmas, and belief in their importance supersedes the object which they were originally meant to subserve. Special training develops intellectual acuteness and fine and subtle distinctions. The sense of proportion is lost and the broad, simple, direct methods which alone are really useful in helping plain people to attain the substantial objects of life, become entangled in a network of form and technical refinement.

This tendency shows itself in some degree in every learned profession. It often affects the organization and control of political methods. It often affects the conduct and administrative regulation of government. History is full of illustrations of its working in religion. The development of the fine arts presents a record of a multitude of revolts against the results of its influence. It affects the development of substantive law. Most of all it characterizes the growth of legal procedure. There more frequently than anywhere else the system takes the place of the object for which the system was created. We need not go back for illustration to the Medes and Persians, or to the Priesthood of Egypt, or ask why Cato wondered that the Roman Augur could keep from laughing when he looked a Roman Augur in the face; for the development of our system of common law and equity is familiar to us all.

We are now in about the same condition, as respects a great mass of technical and specific rules obstructing the course of justice, as we were in 1848, when the old law and equity practice of the state was swept away by the adoption of the Field Code—that great enactment which gave form to the procedure of practically every American state following the course of the common law, and which ultimately impressed itself upon the slow-moving but considerate judgment of the English people. We are now in about the same condition in this respect as was England in 1873 when the British Parliament passed the new Judicature Act and yielded to the principle of simplicity in litigation, the allegiance which she has ever since maintained and strengthened. Curiously enough, at about the same time when England adhered to the principles of the reformed procedure, we were taking the first great step towards the abandonment of those principles by making the basis of our further development in procedure the revision of the Code by my old friend, Mr. Montgomery Throop. There is but one way to deal successfully with the condition resulting from such a process, and that is not by palliatives in procedure but by revolution in procedure. The New York enactment of 1848 was revolution. The British enactment of 1873 was revolution. And it is revolution that we need now.

Let me recall some of the effects of such a system as we now have, well known as they are to all of us. The system of attempting to cover every minute detail with legislation appropriate to every conceivable set of circumstances is to create a great number of statutory rights which the courts are bound to respect because they are the law; which suitors are entitled to demand because the law gives them. In some cases they may contribute to the attainment of justice. In other cases they may obstruct it. The courts cannot apply the rule of justice because they must apply the law. These artificial statutory rights become the subject-matter of special litigation intervening between the demand for redress and the attainment of it.

The energies of attorneys and counsel and clients, their time and labor, are devoted to these statutory proceedings instead of being addressed to the trial of the case. Pending the disposition of the multitude of motions which it is possible to make, and which in number are often in inverse proportion to the merits of the case, the final disposition of the

case is postponed. Serious and long-continued delay is the result in many cases. Witnesses die or leave the jurisdiction. Their memories become vague and the establishment of facts becomes more difficult. Suitors become tired and discouraged, or their means are exhausted. Conditions change, and the relief, when attained, is often deprived of much of its value.

The facilities for delay afforded by this system lead to innumerable defences for the purpose of delay. These encumber the calendars and occupy the time of the courts, and prevent the hearing and decision of honest controversies. The system tends to breed a class of Code lawyers, acute and subtle, practitioners skilful in baffling the efforts of honest men seeking to get their rights and with no conception whatever of the principles of jurisprudence or of the high duty of the advocate to secure substantial justice for his clients. At their hands justice is easily tangled in a net of form. The public estimate of the profession of the law is lowered. Public confidence in the administration of justice is weakened. The general effect of this great mass of statutory provisions as a whole is not to facilitate, but to impede and hamper the courts in rendering prompt and efficient justice.

All this is wholly unnecessary. Our courts desire to do justice; they are competent to do it; and they will do it if left to themselves under the guidance of a few simple, fundamental rules and unhampered by a multitude of statutory requirements. They are perfectly competent to regulate the procedure before them by their own rules, which they can adapt to the requirements of the cases that arise, so that whatever is necessary in any case to secure the ascertainment of the facts and the application of the law to them shall be done, and so that nothing else shall be required.

I have always thought that Judge Stephen Field's printed but unpublished little book called "Early Days in California," was most instructive to a student of the law. In the early period of the great gold excitement of 1849 some fifteen thousand men, mostly miners, found themselves collected in the mining camp of Marysville. In that hitherto almost unpeopeopled region there was no government and no administration, there were no officers of the law, and there were no laws of which anyone there knew anything. The need of government was apparent and the miners got together and elected Stephen Field Alcade of Marysville. Under that title he proceeded to hold court. There was no procedure. There were no laws to describe or define his powers. There were no statutes or precedents establishing the rights of the parties who came before him; but he heard complaints; and with the whole force of the general concurrence of that rude community, he required the persons complained of to answer. He tried and determined the issues. He enforced the judgments. He tried and punished offenders against those rules of right conduct which obtain generally in civilized communities, and he rendered justice to the satisfaction of Marysville and the peace and order of the community. It may be useful sometimes and it is refreshing always to look out from the refinements and subtleties of our sophisticated system for administering the law upon some simple and direct and swift enforcement of the fundamental principles of justice, and to question whether in all our elaborate contrivance of means to attain this end we may not be obscuring and forgetting the end itself.

The real strength of the tendency to make provisions for arbitration of disputes in the rules of business organizations, rests upon a feeling that, if the members of the particular trade or branch of business can get away from lawyers and the law's delays and the cumbrous technical and expensive procedure of our courts, they can have the merits of their disputes determined swiftly, certainly, inexpensively and adequately. I am inclined to think they are generally right.

Consider the recent development of law administration in the Public Service Commissions, and the Interstate Commerce Commission of the United States. They have not yet embarassed themselves by any code

of procedure. They have not had time. Yet they are hearing and determining in a most adequate and satisfactory way questions of fact and law of the most complicated nature and of vast importance.

It would be difficult to conceive of litigation more important or more complicated than the great controversies between nations which the civilized world is more and more tending to submit to the judgment of arbitral tribunals. Yet the Permanent Court of Arbitration at The Hague has practically no rules of procedure. It can't have them because the forty-four nations who are signatories to the Hague Convention for Pacific Settlement of International Disputes differ so widely in their ideas of procedure that the adoption of any singl system would be impossible. Accordingly that great Convention which first gave practical form to the hopes and aspirations that the apostles of peace on earth had been voicing for centuries, contained only a few very simple and fundamental provisions regarding the constitution of the Court and the way to get a decision from it, leaving the field of procedure, in the main, to be determined by the common sense of the parties and of the Court in conformity to the requirements of each case as it arises.

I remember hearing Mr. David Dudley Field, during the argument of a cause many years ago, ask Mr. Charles O'Conor a question as to his position concerning the effect of the pleadings in the case. Mr. O'Conor turned, and, with that intensity which characterized him (especially when dealing with someone he did not like) he answered: "I understand that under your code, Mr. Field, the plaintiff comes into court and tells his story like one old woman and the defendant comes in and tells his story like another old woman." And that was all the satisfaction that Mr. Field got. The reply was intended as a condemnation of the rather simple code of that day, but I am not sure that it was a condemnation. The old-woman method doubtless has its disadvantages, but I am not so sure that they are not to be preferred to the subtleties of the special pleader and the Code lawyer. If we could substitute for Mr. O'Conor's old woman a man of comon sense with a reasonable knowledge of substantive law and a trained sense of materiality and relevancy we should have come very near the chief end and object of all legal procedure. I think it is safe to say that if we choose between too much procedure and too little we better have too little.

I wish to guard here against the misapplication of what I have said lest it have the effect of overstatement. It should not be inferred from what I have said about our procedure that in general, considering by itself each case which does come to a final judgment, the ends of justice are not attained. As a rule, in most cases which reach that point justice is done because we have honest and competent judges and an upright, independent, fearless and loyal bar. Yet it is done in a great proportion of cases, not by the aid of, but in spite of, this vast multitude of statutory restrictions, and with an enormous waste of time and labor and expense and delay. I do not mean to be understood as asserting that a great part of the provisions contained in our Code do not point out quite reasonable and proper methods of procedure to be followed in some cases to which they seem to be applicable, and probably in the cases which the legislature has had in mind in enacting them into law. Yet in a great number of other cases they are burdensome and obstructive; and it is true in general that the more detailed provisions of law are, the more certain they are to be misfits in many cases to which they come to be applied. I do not mean to say or to imply that the members of the bar are subject to just criticism for insisting in each case entrusted to them that their clients shall have the benefit of all the statutory rights which the legislature has provided. Suitors are entitled to the rights the law gives them. They are entitled to have their counsel assert those rights and to have courts award them. I do insist, however, that the law ought to be such that what a suitor is bound to do or to suffer by way of means or preliminaries leading to a final decision on the merits of his case, should be determined, as far as possible, by the common-sense requirements of that particular case, and as little as posible by compliance or failure to comply with detailed and technical statutory requirements designed to cover ten

thousand different cases as well as his. I do insist that, notwithstanding the many just decisions rendered by our courts, when we consider the prevalent delay, the unnecessary expenditure of time and effort and money, the hindrance of just rights through long-continued defensive litigation without substantial merit, the litigants who abandon their pursuit of justice through weariness or lack of means, the citizens who abandon their rights rather than incur the annoying and injurious incidents of litigation in the effort to enforce them, the emboldening of the uscrupulous in whose hands delay and difficulty and expense of litigation are weapons with which to force compromise without just grounds—when we consider all these incidents of our present condition we are bound to say that the general interests of the administration of the law require a thorough and radical change.

The situation cannot be met by merely increasing the judicial force. We have often tried that expedient, but always ineffectually. The only real remedy is to be found in reforming the system.

I have said that the most important thing of all toward re-enthroning the principle of simplicity and directness in attaining the ends of justice is that we ourselves shall observe that principle in determining the standards of conduct at the bar. No system will work well unless it is applied in good faith. Even though we may escape in a great measure from the statutory restrictions which now hamper the courts in applying the rule of justice in the particular case to the proceedings in that case, the rule cannot be successfully applied unless the sentiment of the profesion—the public opinion of the bar—makes conformity to that rule a requirement of honorable obligation.

What I have in mind may be illustrated by reference to two proposed provisions which have been much favored by our committees and which, it seems to me, should find their place among the simple and fundamental provisions of any system of procedure. One is, the provision that in every case a day shall be given when the parties, through their counsel, may come before a judicial officer informally for a rule regulating the further procedure in the case, covering the whole ground of pleadings, bills of particulars, discovery of documents, deposition of witnesses, mode of trial, etc.—the so-called omnibus summons provision. This would be a most useful substitute for the separate, successful motions under special statutory provisions now permitted, yet I can well see that its effectiveness could be largely destroyed if the bar generally were to attempt to evade it instead of accepting in good faith the opportunities which it would afford.

The other provision is, that no error of ruling upon the admission or rejection of evidence or otherwise in a trial, shall be ground for reversal unless it appears that a different ruling would have led to a different judgment. Real acquiescence in such a rule by the bar would put an end to the incessant objections and exceptions which now disfigure so many of our trials. We share with England and her colonies a highly artificial and technical body of rules of evidence such as obtain nowhere else in the civilized world. These rules afford most delightful exercise for intellectual acumen, and they have some advantages. They have also great disadvantages, and it is by no means certain that in the long run they produce any better results than the simple and natural methods which obtain in the trial of cases in countries that follow the course of the civil law, and where the method of Mr. O'Conor's hypothetical old woman controls in the giving of testimony as well as in the statement of the case. The fundamental disadvantage of this Anglo-American system of rules is the fact that, when strictly and technically applied, they do not correspond with the instincts of the habits or the ideas of common sense of any plain, sensible laymen in this world. Their strict application continually impresses clients with a sense of injustice because they are not getting their case before the court, and it impresses witnesses with a sense of being bottled up and prevented from telling the truth. In the strictness and technicality with which we enforce those rules we go far beyond England or, so far as I know, any of her colonies. I think we stand alone among civilized countries in the obstacles that

we interpose to the giving of testimony in the most natural way. How common it is to see a witness trying to tell his story, hindered and worried and confused by being stopped here and there again and again by objections as to irsevelancy and immateriality and hearsay, when what he is trying to say would not do the slightest harm to anyone and would merely help him to state what he knows that is really competent and material. Such a rule as I have now mentioned would take away the faint hope of a technical reversal which underlies such objections; but the legal right to object would continue, and incessant technical objections would probably continue to prolong many trials and impede the speedy ascertainment of the merits of many causes unless the bar in good faith were to accept as a rule of conduct that no objection should be made or point raised not really affecting the merits.

I presume upon your not remembering something that I said at Rochester a year ago to repeat that we are too apt at the American bar to act as if in litigation we are playing a game, with the judge as referee of the game. Only the bar itself can cure that, and realize the highest usefulness of a noble profession by devoting its learning, its skill and its best effort to securing for every suitor, as promptly as possible, a fair and final judgment on the merits of his case.

The complication of our procedure is only one phase of a general tendency affecting the whole field of government and law in the rapidly developing, intricate and interdependent social conditions of our time. In the fundamental act at the polls, when the sovereign people select those who shall make the laws and shall administer them, the voter has placed in his hands a ballot of enormous size, sometimes too large to be spread out fully in the voter's booth, and with such a vast array of names for such a great number of offices to be filled, and with so many questions to be decided in the affirmative or negative, that the best trained and best informed mind must fail to do its whole duty intelligently. The need for simplification here is recognized by the advocates of the Short Ballot, who have my most sincere good wishes.

The mass of our statutes has grown so great that the volumes constitute a library in themselves and require another library of indexes and digests and guides to ascertain what the law is. We are continually trying to simplify this condition by consolidations and revisions and codifications, all of which are useless.

The mass of judicial reports has grown so great that it begins to seem as if before long we shall have to burn our books like the Romans and begin anew. And indeed, where decisions can be found in support of every side of every proposition, authority is in a great measure destroyed and we do begin anew in determining by the light of reason which authority shall be followed. I wish that our judges could realize officially what so many of them agree to personally—that restating settled law in new forms, however well it is done, complicates rather than simplifies the administration of the law; that the briefest of opinions usually answers the purpose of the particular case; and that the general interests of jurisprudence justify reasoned opinions only when some question of law is determined which has not been determined before by equal authority.

On every side the increasing complication of life calls for vigorous and determined effort to make the working of our governmental system more simple. Our primary concern as lawyers associated to consider the public aspects of our professional work and to promote the usefulness of the profession to the community is with our own procedure.

THE REASONING FACULTY IN MAN. IN ANIMALS; IN ANIMALCULAE; INSECT LIFE; INSTINCT CONSIDERED.

(By the Editor.)

A writer contributing to the Kansas City Journal who is quoted in the New York Evening Sun takes up the question of Animal Reasoning, on a high plane, and discusses the problems related, to the power of animals to reason, as well as the lower forms of insects, and animated life in its lower forms of manifestation. He arouses doubts as to the existence of any actual boundary line between "Reason" and the so-called "instinct," which by a sort of tact concession has been assigned to this domain by the Naturalists of the past.

There can be no reasonable doubt, as a fact in science, that animals have the reasoning faculty, in a marked degree, and Science and Research have found examples of like faculties in the lower forms of Creative Life.

The following selections from this writer will show the present trend of scientific research and thought.

ANIMAL REASONING.

Examples Displayed by Creatures of Lower World.

There are marked changes going on in the thinking world as to whether there is not an order of mind in the lower forms of life similar to the manifestations of mental activity in the human species. Many thinkers for various reasons, while not boldly asserting that the two kinds of mind are not precisely alike, find it difficult to make distinctions where none really exist. It may be that the difference in kind is one of degree or intensity rather than quantity. But there are those who are experimenting and pushing their investigations out into many different fields of life in their biological studies, and who are constantly meeting with surprises in the larger forms of life as well as in the microscopic organisms which are calculated to eliminate the boundary line between instinct and reason—if any such really exists.

At the outset it should be understood that the old concepts of mind are passing away, and those who would limit it to a function of matter cannot but feel the narrowness of their own thoughts compared to the breadth of the subject in the present stage of verified knowledge.

Descartes is chiefly responsible for this antagonism. The idea somehow got in to his head that the mental and the physical natures of men were in some manner so linked together and wound up during life that they worked together as two clocks occupying different spheres might respond tick for tick, although he limited psychical action to man only, thereby excluding all animals, which he regarded as automatons.

It may be accepted as axiomatic in the mechanical world that nothing can be transmitted from any sort of energy only of its kind. Motion can transmit motion only. An engine is an instrument for transmitting but not creating motion. A mental process cannot therefore come from anything except it be a mind process, and consciousness can never be explained by molecular or chemical changes in the brain cells, though the brain cells may be modified by all the changes that take place in the brain or in the nervous system, which is only an extension of the brain substance itself. We assume in our thinking that there is a physical universe and of which we actually know comparatively little, and there is also a world of mind and of which only a few little patches here and there have been partially explored. But patient workers are bringing to light wonderful discoveries from year to year, and these quiet investigators take little pains in parading their discoveries before the public. One most go to the scientific journals to know what they are doing.

All efforts heretofore to locate mind have signally failed. No definition has yet been given to either mind or life which is free from objection. But little by little hidden and obscure things are being

brought prominently into the very clearest light and made tangible to the sense as well as in harmony with consecutive thinking.

Evidently two conditions require to be satisfied before one can admit the presence of mind in any organism, the presence of the elements of consciousness and of choice or selection.

For instance, the amœba, one of the simplest known animals, presents active and spontaneous movements; it exercises the power of choice and consciously selects its food. These activities imply an order of purposeful knowledge.

Romanes, a very devout man, observes that "no one can have watched the movements of certain infusoria without feeling it difficult to believe that these little animals are not actuated by some amount of intelligence. There is a rotifier whose body is of cup shape, provided with a very little tail armed with strong forceps. I have seen a small specimen of this rotifier attach itself to a much larger one with its forceps, the larger rotifier at once becoming very active and springing about with its burden till it came to a piece of weed. It took hrm hold of the weed with its forceps and began a most extraordinary series of movements to rid itself of the incumbrance. It dashed from side to side in all directions, but not less surprising was the tenacity with which the smaller rotifier retained its hold, although one might think it was being jerked to pieces. This lasted several minutes till eventually the small rotifer was thrown violently away. It then returned to the conflict, but did not succeed a second time in establishing a hold. The entire scene was as like intelligent action on the part of both animals as could be well imagined."

Sir William Dawson says: "An amoeba shows volition, appetite and passion. One trying to swallow a one-celled plant as long as its own body, evidently hungry and eager to devour it, stretched itself to its full length trying to envelop the plant. It failed again and again, but repeated the attempt until at length, convinced of its helplessness, it flung itself away and made off in search of something more manageable."

A spider with a big fly could not secure it, so it bit off the fly's leg and as the fly stooped its head to its leg the spider quickly enmeshed it with cords thrown over it and thus lassoed its victim.

Two jackdaws tried to build a nest on a sloping window sill outside a church, but the sticks slipped down. In five days they constructed a crib of sticks resting on a step six feet below and reaching up to the sill to support the nest on which they built it. This looks like a case of reasoning to overcome gravity by building a retaining wall.

Elephants in India not only carry logs to the saws but they pile the lumber with as much care and exactness as do the hands who work at the mills. At the sound of the dinner bell the sawmill elephants will instantly drop their logs and scamper off, screaming with glee at the welcome respite. They will absolutely refuse to carry a log which they consider too heavy, but if the driver insists they may call on one of their mates to help.

In the stacking of square logs if the elephant finds that he has not brought the log near enough, he calculates the distance with his eye and then he walks round to the end of the log and applies his trunk and tusks to it and puts it in place. He is not directed to do this by his keeper.

Other elephants actually fed the circular saws in the mill, and so marvellous is their intelligence that an astute little tusker was observed to cease the pressure on his log, withdraw it anxiously and then offer another to the revolving saw, which was formerly going crooked through the log.

A spider was observed trying to spin a thread so as to connect two objects, but the wind blew from the wrong direction. The spider suspended the operation till the wind changed and then wove the strands. This action was in accordance with the experience of men before the days of steam navigation. Examples can be indefinitely multiplied.

In Adair County, Missouri, August, 1866, I witnessed a battle between a rattlesnake and a blacksnake. I was riding on horseback along a dim

road on a prairie ride, when my atention was attracted by the well known noise of a rattler a few feet from the road. It was coiled on a small ant hill with head raised four or five inches and swaying back and forth with eyes steadily fixed on a blue racer blacksnake which was gliding very rapidly around the ant hill, but far enough away to keep the rattler from biting it.

I sat on my horse and watched the manœuvres of both reptiles for five or six minutes, and in the meantime the rattler had tried to strike the blacksnake several times, but the latter was too quick for him and was always out of reach. Each wanted to get the advantage of the other. But the rattler, under the tantalizing actions of his wily antagonist, became furious, wild and vicious as the skirmishing went on. Finally the rattler struck out at good length and wildly, and before he could recover, the blacksnake had seized the rattler by the neck close to the head, so close that the rattler could not turn its head and bite. The floundering in the grass was terriffic and now began the battle in a death struggle. The blacksnake in the hurly burly commenced wrapping itself around the body of the rattler till finally the body of the rattler, which was aboout three and a half feet in length, looked like a great spoted snake swelled up with streaks of black twisted lengthwise around it. The struggle must have continued four or five minutes, possibly longer. When the blacksnake had wound itself around the body of the rattler, then the blacksnake stretched itself out and squeezed the rattler to death. When it straightened out its body, the ribs of the rattler were crushed in. The rattling soon died away. But the blacksnake made sure by giving additional squeezes till the rattler ceased to move. Then began the unwinding process. The blacksnake commenced unwrapping itself at the tail. It would unwind a little bit and then stop, and so on till its body was almost entirely unwrapped. But it never let loose of the rattler's neck till the very last moment. When its body was entirely unwound, it, by a sudden muscular movement, threw itself between two and three feet away from the body of the dead rattlesnake. There it lay on the ground quite still a minute or two and then crawled away. The time thus occupied must have been fully a half hour, perhaps longer,

EDITORIAL.

THE SUPREME COURT OF THE UNITED STATES.

Jurists will agree throughout the world that this Court may justly be styled the highest Judicial Tribunal now in existence. Its jurisdiction has been very well defined in the more than a century of its life, and the cases that have recently come to final determination are questions so momentous to the American Nation—notably two cases of extraordinary interest that the eyes of the people of our country, and the jurists of Christendom are turned to it more now, than at any period of its history. The personnel of the Court becomes naturally a subject of absorbing interest. Many of the Journals in our country have deemed it a proper subject for illustration, and two groups from this Bench have been presented to the profession for approval. Neither of these seem to do justice to the subject according to our ideals. There are nine judges now on this Bench, a Chief Justice and eight associate Justices. It is in some respects not an easy task to make a group that should do justice to the Bench, and to the men who compose it.

The groups submitted are failures measured by any rational or artistic conception. More than one half the space is devoted to robes, hands and feet of the Judges, the latter of which should not under any circumstance appear. The heads are so diminutive, so small that they furnish no idea of the men.

This Journal proposes to reproduce this Court so that the Bar of the Nation con see the face and the expression and study the individuality and the character as revealed in the face. We shall reproduce the head and the face of the Judges as large as our pages will warrant in accordance with our conception of artistic effect. One page to each head; producing the Chief Justice, Associate Justices, Harlan McKenna and Holmes, in our current number and continuing the representation in Volume 29, which commences with the June number of this year.

We shall reproduce the Bench in a large group suitable for framing for a lawyer's office, which we hope to make worthy of this great Court; or in a portfolio that will contain them all of the size of this Journal for thos who prefer it.

We shall place the price of either at $1.50 and postage added if mailed, and we hope to present such a representation of this Bench as will be a credit to this Journal and so far as possible produce portraits that have been furnished by the Judges to us, which will be similar to those presented in the current number.

NOTICE TO MEMBERS AND OTHERS.

The Medico-Legal Journal announces the publication of the present Bench of the Supreme Court of the United States in a style suitable for framing for a Lawyer's office, from portraits furnished by the Judges, showing large sized heads. Samples of some of the Judges will appear in the next number of the Medico-Legal Journal, each head occupying a full page. The price of the group will be one dollar, and orders may be sent direct to this Journal.

The Medico-Legal Journal will furnish works upon Medical Jurisprudence from standard writers upon favorable terms to libraries, the Bar and to the Medical Profession, and a list of the same will be found in all future numbers of the Medico-Legal Journal.

Please address the Editor and Publisher for particulars. It will make a specialty upon the works of prominent publishers and eminent authors, by special notices in the Journal.

Volume I of the Bulletin of the Medico-Legal Society will be ready

for delivery early in July at $1.50 per copy; $1.60 if sent by mail. Either of the four numbers which it embraces will be furnished separately at 25 cents per number.

Bell's Medico-Legal Studies will be furnished at $2 per volume and all Honorary or Corresponding Members of the Medico-Legal Society are entitled to receive copies of the same at half price as a personal courtesy to them, without their being obliged to subscribe unless they wish to do so. Postage to be added where necessary to be mailed.

The Medico-Legal Journal also announces to Libraries, Book Agents and others a copy of the large Group of the Judges of the United States Supreme Court FREE to any one furnishing four new prepaid subscribers to the Journal; or a copy of Volume 1 of the Bulletin of the Medico-Legal Journal.

HON. DAVID LLOYD GEORGE.

The Chancellor of the exchequer is to-day one of the most conspicuous figures in England, one of the ablest, most trusted of any man in England, by the people, by his party, and we think by the Throne.

Admitted to the bar at 21 in Wales, after a terrible struggle with poverty, he quickly built up a large practice at the Bar. His first appearance in public life was as a member of the council of Carnarvon Shire and in a campaign that created a new Wales, based on Welsh Democracy, and Welsh Nationality, and he as the impassioned representative of the common people and working men of Wales, was elected in 1890 to House of Commons, only a decade ago.

He consolidated, led and marshalled the Welsh forces in Parliament. He was a born leader. Parnell never led the Irish forces in the Commons with as strong a hand. He spoke the language and was idolized by the working people.

He sprang at once into the heat of the struggle in Parliament on the Liberal Side, gave and took blows, and was the only man that could meet successfully Joseph Chamberlain on the floor of the House.

He is a born fighter. He opposed the Education Bill of 1902, with such energy and vehemence that all Wales was roused into an enthusiastic revolt against its enforcement.

In the Tariff Reform Movement he was side by side with Mr. Asquith, and was considered to be the most effective and brilliant of the free trade advocates. He attracted the attention of the leaders of both parties.

When the Liberals came into power in 1906, he became President of the Board of Trade. He was the last man the Conservatives would have selected for such a post.

In less than two years he placed the business part of the Government in perfect order. His success was marvellous, wonderful, and he sprang at once into great prominence and was acknowledged by his associates in the Government, by the merchants and men of affairs, to be without exception and without comparison, the most successful of any one at the head of a bureau.

It was largely due to this splendid work that he was made Chancellor of the Exchequer, and in this position his budget of 1909 placed him at the very front, as the highest advocate of the study of the wants of the Nation, and one who studied as well the condition and wants of the people. He became the Chief and head of all questions of Social Reform for England.

His sermon to the Idle Rich, has thrilled all hearts in all lands. He like Mr. Lincoln, is one of the people, and, like Lincoln, believes in the people. To-day he stands for the rights of the people of England, as no man has ever stood before.

His assaults upon the House of Lords was far more fierce, almost virulent, and it was his blows more than all other forces that brought about the realization and precipitated that Revolution, that now confronts that Branch of the Government of England.

He is the embodiment of that sentiment that is to recreate the newer England of the immediate future.

He has more than any other man in England the confidence of the masses of the people, and no man has greater power of teaching and controlling them on the questions of the hour.

The future, the destiny of the English Nation, is more dependent on him than any living man. He has been called "The Vital Spark" of progress and growth and the destiny of the newer England, that is to be reconstructed, on the reorganization of the House of Lords.

The King of England has called on him and has made it his official duty to advise the Throne on all questions.

His health is not as good as England needs. He is the man more than any other at this hour who may be justly deemed "The Hope of the Newer England of To-morrow."

HON. WILLIAM STEVENS FIELDING.

Privy Councillor of Canada; Minister of Finance; in the Dominion Cabinet of Canada; Sits in the Dominion Parliament in the electoral district of Shelburn and Queens;

Mr. Fielding was born in Nova Scotia, on the 24th of November, 1848; is the son of Charles and Sarah Fielding; He married in 1876 Hester the daughter of Thomas A. Rankine, of St. John, New Brunswick; He was educated at Halifax, Nova Scotia; Acadia University conferred the degree of D.C.L., upon him, and Queens University the degree of LL.D. He was connected with the Halifax Morning Chronicle, as a Journalist for 20 years; when he resigned as managing editor of that paper, to enter public life. He represented the City and County of Halifax in the Provincial Legislature from 1882 to 1896. He was a member of the Provincial Cabinet a few months after his election, and Prime Minister of the Province from 1884 to 1896, when he resigned to accept the bureau of Minister of Finance in the Cabinet of Sir Wilfrid Laurier in the Dominion Cabinet.

As Minister of Finance of the Dominion Government he was particularly charged with the re-adjustment of the Canadian Tariff; he submitted to Parliament the British Preferential Tariff, and later the measures imposing surtax on the products of Germany in consequence of German action adverse to Canada. Later legislation dealing with the so-called dumping system; he was a representative of Canada at the Colonial Conference of London, in 1902; he was a Governor of Dalhousie University. He remained through all the changes in the Canadian Cabinet, Minister of Finance and had charge of the most important work in relation to the Tariff and business interests of that Dominion, retaining the full confidence of the Government, the Country and his constituency.

He was one of the most conspicuous figures in the recent conference at Washington, with the Government of the United States, in the negotiations which resulted in the Reciprocity Treaty, in affecting which he occupied a very prominent part, in asserting, and protecting what he regarded as the best interest of his own country and the people of both countries. He is an ardent and warm supporter of the present Reciprocity Treaty, which he has maintained in Canada on his return from the Washington Conference with great ability and skill.

He is now in London, in his official capacity and is a man in the front rank of Canadian statesmen. He has been an active member of the Medico-Legal Society for many years, and entered the Dominion Cabinet at the same time as the Hon. Andrew George Blair, K.C., M.P. and P.C.; who was also an active member of the Medico-Legal Society, now deceased.

Mr. Fielding has recently been made an honorary member of the Medico-Legal Society for his distinguished services in his official position as Minister of Finance, and is now one of the most prominent men in the Dominion of Canada.

EIGHT HOURS SLEEP.

The New York Herald reports the following advice of a leading London Physician, a specialist in mental diseases, as a dissenting criticism on the old adage, "Early to bed and early to rise, etc."

He says:

"Go to bed as late as two o'clock in the morning if you like, and if you get eight hours sleep it will make no difference in your health. Some people who lead lives of mental activity make the mistake of hurrying to bed at ten or eleven o'clock, because they are obsessed with the idea that one hour's sleep before midnight is better than two afterward. They go to bed, switch off the lights and flatter themselves that they are doing the right thing, but it often happens that they begin to worry and fidget because they have gone to bed too soon—in too much of a hurry.

It's all right for the working man to get well to bed before midnight (his fatigue is purely physical), but with the mental worker there is little physical tiredness; his is mental lethargy, something entirely different. If he comes home at half past eleven from a theatre or long day's work he should take at least an hour to go to bed. He should read something light which will not disturb him mentally, then go quietly to rest. For men and women engaged in exacting literary or artistic work the more sleep they can get the better it is for them, and it does not make a bit of difference to them at what hours they get it so long as they get enough."

The lawyer, the literary man, writer, editor, author or reviewer will, as a rule, agree with the London Physician that the adage, while it may be excellent for the farmer or the laborer with his hands, in any calling, say that it would not answer at all for the writer, editor, thinker, etc.

He who thinks, originates, creates, must wait for the inspiration, he may reach it by profound concentration, and introspection in an instant. This central idea then followed and worked out, results in action, the results of which is what the world recognizes as creative genius, in man.

Time had no relation to the hour that Newton saw the apple fall. Edison perhaps can recall the hour that completed in his mind the discovery of the method of capturing and reproducing sound.

Roentgen can tell, perhaps, the very hour that the phenomena of the ray took form in his mind, but all will say that it is at an unknown, unexpected hour or moment that the inspiration comes, and it must be taken at the flood, or its memory even, might fly by, be forgotten, and return no more.

The great artist must feel this inspiration and grasp and execute it on the instant.

I saw George Inness paint quite a little of his great work, The New Jerusalem. He wished to depict "The city in the clouds descending out of the heavens," and the "River of the water of life, flowing for the healing of the nations."

He painted city after city, with splendid domes and palaces, that he would leave on the canvas for days and study them, and then rub them out with his brush and create another, wholly unlike it, until at last came the one he left, resplendent with a light that came from a Cross white as a sun throwing its brilliant radiance over the whole city, river and landscape, that no artist of his day could equal, excel or even hope to imitate. Every artist, every author, every thinker, every creative genius the world has ever known, recognizes and is governed by this subtle and mysterious influence.

EDITORIAL

Prof. Charles W. Elliott, President Emeritus of Harvard, gives to the New York World his views on the relation of alcohol to longevity and the influence of the mind in hastening or retarding old age; views that we repeat as of high value and importance. We quote from the World:

ALCOHOL IN ITS RELATION TO LONGEVITY.

"I am not one of those," said Dr. Elliott to Mr. Bruce, "who believe that it is necessary to abstain wholly from the use of alcohol, tobacco, tea, coffee or other stimulant. On the contrary, Ifeel that there are times when a stimulant, used in moderation, is beneficial. What I am opposed to is the habitual use of stimulants, even in moderation. The man, for instance, who is accustomed to take, every day, so much as a single glass of whiskey is doing himself more harm than he realizes.

"Recent psychological research, as conducted in this country and in Germany, has made it certain that the effect of alcohol, when habitually used, even in the smallest quantity, is to diminish one's efficiency and to render the body more susceptible to the inroads of disease. I am convinced that a similar result follows the habitual use of tobacco, tea, coffee, etc. z z

"Moreover, there is another great reason why the constant use of stimulants is harmful. Unless impelled by necessity, men are not apt to overstrain themselves in the performance of their daily work if they leave stimulants alone. In all men—although, to be sure, the danger point varies with the individual—there is a limit beyond which they cannot go without putting a serious strain on their nervous system. Normally, when this limit has been reached, nature hoists a distress signal in the way of fatigue. Stimulants, however, have the effect of masking this distress signal from the worker so that, without realizing it, he goes beyond the danger point. He may do this safely at intervals, he cannot do it safely as a regular thing. Yet this is what he does if a habitual user of stimulants.

THE INFLUENCE OF THE MIND AS TO LONGEVITY.

"Do you consider," the question was put to Dr. Elliott, "that the state of man's mind has much influence in retarding or hastening the advance of age?"

"Of course, other things being equal, the man who is habitually cheerful and optimistic, who refuses to worry, and who meets the rebuffs of fortune with calm courage, is liable to live longer, and to keep his youth better, than the fretful, worrying man. But this I feel is largely a matter of temperament. Some men seemingly cannot avoid worrying. No doubt a good deal can be done by training, and there are many ways by which a man may be helped to acquire habits of cheerfulness and serenity. The best way, assuredly, is for him to live as a man should—honestly and uprightly. A good conscience will go far toward giving him length of days

"And," he was asked, "how about exercising the mind?,

EXERCISE THE MIND.

"That I consider fully as important as exercising the body. No man can hope to retain his mental any more than his physical faculties in full vigor unless he exercises them. Too many people let others do their thinking for them or else think in a narrow rut, which gets narrower as they grow older. The result is mental atrophy similar to the atrophy that develops in unused muscles. Good, clear, earnest thinking has never hurt anybody, but is of the highest benefit to the individual as well as to the community.

THE LAWYER AND BANKER.

The Lawyer & Banker and The Bench & Bar Review, of San Francisco, Cal., has recently purchased the good-will and subscription lists of the Banker & Investor of New York City and Philadelphia; this gives it a circulation of over 22,000. This magazine within the last four years, under the independent editorial management of Mr. Chas. E. George, has won fame throughout the country because of its unique and daring treatment of unusual cases. It was pronounced last year, by Ex-Governor David B. Hill, "The best and brightest legal publication in America." It is unlike any other legal magazine published in the dealing with live issues of the day effecting the profession and giving in each number a complete brief of some case involving intricate, difficult and unusual questions. Mr. Chas. E. George has united with the Medico-Legal Society and has been named as a delegate for that body to the Conference on Reform in Criminal Law, at Boston, September next.

AMERICAN BAR ASSOCIATION.

Preliminary Notice.

Baltimore, Md., April 14, 1911.

To the Members of the American Bar Association:

The first meeting of the Association will take place on August 29th, 30th and 31st, 1911, at Boston, Mass.

The President's address will be delivered by Edgar H. Farrar, Esq., of New Orleans.

The annual address will be delivered by William B. Hornblower, Esq., of New York City, on "Anti-Trust Legislation and Litigation."

Justice Henry B. Brown, of the U. S. Supreme Court, retired, will present a paper on "The New Federal Judicial Code" (Act March 3d, 1911).

Hon. Robert S. Taylor, of Fort Wayne, Ind., will present a paper on "Equity Rules 33, 34 and 35."

The annual dinner will be given on Thursday, August 31st, 1911. Samuel J. Elder, Esq., of Boston, Mass., and William F. Gurley, of Omaha, Neb., have accepted invitations to respond to toasts.

George Whitlock, Secretary.

NOTICE.

This number of the Journal will be sent to all the Honorary and Corresponding members of the Society. This is done to request those who have not subscribed to do so, and to advise them that the Journal will be sent to them at half-price or $1.50 per annum.

The circulation is steadily increasing, and it is hoped that the Corresponding Members will respond, so as to keep them in closer relations to the Society and more in touch with its work.

THE LENOX LIBRARY.

The annihilation of the Lenox Library is a public calamity. It was a crowning glory to the City. The building's site, its splendid location, its enormous usefulness, is now to be only a memory. It passes into oblivion.

The men who consented to the melting of the memory of Mr. Lenox, into the sea of forgetfulness, may have had the legal right, to defeat the will and wishes of its founder, but this ought to be doubtful as a legal proposition.

The man of wealth who is now thinking how to place a few millions in such a foundation as Mr. Lenox created, will hardly feel like it,

if before his dust has crumbled in his grave, those whom he might now trust, to make a sure foundation for a great library, would hesitate to attempt it if they studied this obliteration of Mr. Lenox' wishes, when the trustees he honored by his personal selection, retire from the duty he entrusted to them; transfer the library, terminate the Trust he formed, deliver the treasures he accumulated to the Library of the City, and thus end the dream of Mr. Lenox.

The Astor Library did a great work. It had a magnificent opening, and a fine career, but it was not perhaps endowed with the living and complete autonomy, foundation and resources of the Lenox.

Those who should have had a pride in making it the grandest library of the Western World, with enormous resources, took neither interest in nor proper appreciation of its future or its past relations to the City, which had furnished their ancestor with its protection while the enormous fortune he made was accumulating.

The one on whom obligation rested most, abandoned that city and his own country, that had protected his grandfather, whose wisdom, sagacity, foresight and great gifts had laid the foundations of that colossal fortune; which the produce and economy of his own father and uncle had augmented; he sought in a foreign country to enjoy, and spend the money which had fallen into his hands by the accident of his birth alone.

Not one of the family had ever contributed anything to the city or the country except this library, with a single exception, and it may be a wise Providence that allowed our new library to absorb it. This library should not pass from human memory, however, without due credit to the genius of its founder and the splendid and historic names who devoted their lives to its upbuilding. The family had left no descendant broad enough to carry out the plans and aims of the great man and mind, of lowly origin, who had founded a family by a union of his son with the family of the ablest man of the Bar of Philadelphia, and had so arranged the policy and management of the estate that it must increase and grow into such stupendous results, as has rarely been seen in the world's history. He never sold any land, and invested everything in land, and made that the fixed policy of both his sons, who respected it strictly, and the growth of the city and advance of its real estate creates a splendid monument of wealth.

The sequel by which the Astor Library is absorbed is not the fault of the City nor any Board of Trustees, nor the destruction of a sacred or any trust by any Board of Trustees. The opportunity to connect for all time the name of the grandfather, with the City, that had protected him and his descendants, was lost forever, and this avenue of recognition lost beyond recall to the family name and its prestige.

The new Great Library that stands on land that is worth many millions of dollars has a magnificent future. It did not need to obliterate the foundations of the Lenox with its splendid memories that gave such lustre to the Metropolis.

Its resources were enormous, double and triple what it needed for the creation of the most ambitious of the great libraries of the world.

It was a mistake in policy that effaced and obliterated these lesser libraries, from the City's History of the Era of the Nineteenth Century.

What was apparently gained could easily have been replaced with money out of its own resources, that were enormous and inexhaustible. From these the City will create a Library for the future, commensurate with the dignity and the glory of this Metropolis, which will be far in the lead of all the cities of the world, long before the middle of the present century. We shall have a library greater than the Bodlean and will far excell the British Museum, but the annihilation of the Lenox Library, the pride of the City, so dear to the men who helped to make New York what it now is, who loved the Lenox for its quiet, its repose, and its splendid home and future, will witness its destruction with profound regret and many of them will regard its effacement as a sacrilege, a public calamity.

TRANSACTIONS.

THE ANNUAL MEETING OF THE MEDCO-LEGAL SOCIETY FOR 1910.

Judge William H. Francis, Vice-President, in the Chair.

The annual meeting of the Medico-Legal Society, for 1910, for the election of officers, was held at the Waldorf-Astoria, on the 21st of December, 1910, at eight P. M. In the absence of the President, Judge William H. Francis, Vice-President, in the chair, and Clark Bell, secretary. The chair appointed as tellers to conduct the election, Harry Lesser, Esq., and C. J. Taylor, and the polls for the election were opened. The the polls remained open during the session from 8.30 to 9.30 P.M. The minutes of the meeting of November 30 were read and on motion the same were approved as printed in the transaction that had been sent out to the members. It was moved and carried, that the annual reports of the officers be made at the January meeting for 1911, instead of at this meeting, so that they should embrace the entire fiscal year which expires December 31st, 1910. Similar action was taken as to the annual reports of the Sections of the Society and the elections of the officers of the Sections of the Society, as well as the reports of the standing committees. The following new members were elected on the recommendation of the Executive Committee: Proposed by Eugene Del Mar, Alma C. Arnold, M. D., The Nevada, Broadway and 69th Street, City, and M. C. Church, M. D., of 502 West 113th Street, City, Proposed by Clark Bell, Harry Lesser, Esq., of 39 Broadway, New York City, William McDonald, Esq., of 277 Broadway, City. Proposed by Dr. Joseph J. Kindred, Dr. Charles A. Rossenwasser, of 510 West End Avenue, City. The report of the Select Committee on the case of Patrick, named at the November meeting, was called for and the Committee reported progress through its chairman. That the Society had appointed Clark Bell, Esq., LL.D., ex-President of the Medico-Legal Society, as Chairman, Professor S. H. Eckels, of Philadelphia, Hon. J. Joseph Kindred, M.D., of Astoria, Long Island, members of Congress-Elect from the Queens District of this city, and instructed that committee to lay the matter before the Executive of the State of New York and ask for a modification of the commutation of the sentence of Albert T. Patrick, now serving a life sentence, by terminating that sentence at an early date and restoring him to liberty immediately as an innocent man suffering for a crime that he had never committed. Application has been made to the Governor, pursuant to such instruction of the Society, by the Committee, and at the Governor's request the facts and evidence are now being prepared and the Society is willing to have a body embalmed before the Governor or any person he selects to demonstrate that the embalming fluid does enter the lungs in such cases. That the committee on the 5th December made application to the Governor, Hon. Horace White, for a hearing of the commutation of the sentence of Albert T. Patrick. That the Governor, though his private secretary, by telephone requested the committee to prepare a preliminary statement to be sent to the Governor in compliance with the regulations governing such cases, asked that the Governor would fix an early date for the hearing of the application at Albany, and advise the committee of the date fixed for hearing at an earlyday. That on the 12th of December, 1910, the preliminary application was prepared by the committee. The appeal to the public, to the bar, the medical profession, and the public press, the form of a petition for signatures for circulationwere submitted by the committee to the Board of Executive Officers of the Society, which were duly approved by that Board and ordered sent out. The committee ordered that the preliminary application be forwarded to the Governor, which was mailed on the 12th of December, 1910, the receipt of which by the Governor was acknowledged with the statement that the Governor was

absent from the Capital, but that it would be laid before him on his return. The general appeal was sent to the members, to the press and to the general public, and has been responded to by a large number of signatures to the petition. The press has been most kind, the publication by the New York Times of very important articles on the 18th and 19th and 20th of December, 1910, and an article contributed by Julius Chambers, Esq., published in the Brooklyn Eagle and various journals throughout the State and City has given the subject attention. That Dr. Austin Flint, of New York contributed a very important artical for publication which was published in the New York Times on the 20th of December, 1910, favoring the release of Mr. Patrick; that Dr. Flint, who had been invited to attend the December meeting and to address the Society, had replied, that he was unable on account of his health to attend the meeting, but that he authorized the chairman of the Select Committee to have the paper read before the Society, and to say that it was correctly printed in the New York Times except as to one date, and that he contributed to the Society his views on this case.

That the committee was preparing the briefs and arguments and copies of the action of the Medico-Legal Society in the past, in respect to the case of Patrick to lay before the Governor on the hearing of the application.

That the chairman of the committee had received a sworn communication from Albert T. Patrick on the 20th inst., which he had desired the committee to use in its application before the Governor; that a copy of the same had been published in the New York Times of the 21st of December.

That the chairman at about noon, on the 21st of December, had rereceived a communication from Dr. Joseph J. Kindred, who had just returned to the City, and Dr. Kindred told him that the pressure of his business engagements, professional anl official duties which were incumbent upon him in connection with the office to which he had just been elected, that would render it impossible for him to act as a member of the Select Committee and he desired that the Society name some one to act in his place. That the chairman of the committee rcommended to the Society that Dr. Kindred's resignation from the committee be accepted with regret, and that his place be filled by the present members of the committee on consultation, with Judge William H. Francis, Vice-President. The Society also authorized and directed the Committee to appeal to the Bar, the Medical profession and the public press, for co-operation in securing the freedom and enlargement of Mr. Patrick under which the Committee has decided to make this appeal. And as the Medico-Legal Society is not able to defray the necessary and unavoidable exensees of conducting the printing and preperation of such an application and the cost of printing, stenographers and clerical work, the Committee has decided to call upon all lovers of justice and who believe in the innocence of Patrick of the crime with which he has been charged and for which he has been tried, convicted and sentenced to death, to contribute such sums as they fel inclined, to give to the Treasurer of the Medico-Legal Society to enable it to do its work creditably and effectually on the application that has been already made to the State Executive. The Committee also asks the public press to cooperate with them in this effort to set free an innocent man and to that end to publish this appeal and copies of the said reports of the said committees and of the work of the Society in this case and to ask all citizens who believe that Mr. Patrick is not guilty to sign and re turn to the Chairman of this Committee the petition to the end that it can forthwith be laid before the Governor of the State.

Dated, December 12th, 1910.

Clark Bell, Chairman.
H. S. Eckels.

The report of the Committee was on motion received with thanks of the Society and the resignation of Dr. Joseph J. Kindred from the committee was accepted with regret and the report unanimously adopted. The paper of Dr. Austin Flint was then offered by Mr. Clark

Bell to the Society and was read by William McDonald, Esq., at the request of the Secretary. A vote of thanks was unanimously adopted thanking Dr. Flint for his contribution. The issue of the New York Times of the 21st of December, 1910, containing a copy of the affidavit sent by Albert T. Patrick, as it had been made public in the press, and was read by Dr. Charles A. Rossenwasser. The chairman, Vice-President Judge William H. Francis, stated that the paper sworn to by Mr. Patrick should not, in his judgment, be regarded as in any way representing the views of the Society, so far as it reflected upon the motives or conduct of judges or public officers. The paper of Mr. Julius Chambers in the Brooklyn Eagle, was read by Harry Lesser, Esq., on the case of Patrick. The paper and affidavit of Mr. Patrick were referred to the Select Committee as to what action should be taken upon it. Mr. Bell then presented a paper on "Drunkenness as a Defense to Crime," introducing a recent opinion by President Taft, commuting the sentence of Flynn for murder, which was read. Dr. Bell spoke in high terms of the reasons assigned by the President for the commutation of sentence, where the murder was committed while the defendant was intoxicated on a government vessel in Hawaii. Mr. Bell said that it was the ablest clearest, and most lucid exposition of the law as it now stands he had seen. The paper was ordered to be printed in the Medico-Legal Journal, as was also the papers of Dr. Flint and Mr. Julius Chambers. The tellers submitted the result of the election of officers and reported the election by unanimous vote, with one exception, to the officers voted for, and the chair declared the officers to be duly elected for the year 1911. It was moved and carried that the annual dinner be held in the month of January, and that the committee be appointed by the chair. The Society adjourned at a late hour.

WILLIAM H. FRANCIS,
Vice-Pres.

CLARK BELL,
Secretary.

The officers elected were as printed in the Medico-Legal Journal, December number.

MEDICO-LEGAL SOCIETY, FEBRUARY MEETING, 1911.

Hon. William H. Francis Presiding.

The Medico-Legal Society met on February 15, 1911, at the Waldorf Astoria, Judge William H. Francis, Acting-President, presiding, in joint session with the Psychological Section; Mr. Clark Bell, Secretary.

The transactions of the January meeting were read and approved. Dr. T. D. Crothers, of Hartford, Conn., read a paper entitled "The Insanity and Inebriety of J. Wilkes Booth," which was discussed by the Secretary, Dr. J. D. Quackenbos, and others. Mrs. Mary E. Chapin also discussed the subject.

Memorial action on the death of honorary and other members. Mr. Bell paid a tribute to the life, character and distinguished service of Professor Bombarda, Secretary of the International Medical Congress of Lisbon of 1906 and an Honorary Member of the Medico-Legal Society, and expressed the deep regret at his death which the World of Science felt at his untimely death in the recent revolution at Lisbon.

Mr. Bell also spoke in memory of the active and useful life of the Honorable Stephen B. Elkins, Senator from Virginia, an Honorary Member of the Medico-Legal Society, and alluded to his long personal friendship with the late Senator, and spoke of the interest which he took and felt in the Medico-Legal Society.

Mr. Bell also paid a tribute to the memory of Richard J. Nunn of Savannah, Georgia who had been for years a Member of the Medico-Legal Society and had taken a very deep interest in its work. Dr. Nunn occupied a very high position in the medical profession in the State of Georgia, and had endeared himself to a large circle of scientific

men outside of his own State. The Society received the announcement of his death with deep regret.

The Select Committee in the Case of Patrick was called upon to make a report and the Committee reported through its Chairman, Mr. Clark Bell that the Committee was busily engaged in preparing the papers and obtaining the evidence and hoped to be able to initiate the proceedings for the immediate commutation of Mr. Patrick's Sentence as soon os the necessary preliminary preparations could be made.

The Society adjourned.

William H. Francis, Acting President.
Clark Bell, Secretary.

MINUTES OF THE MEDICO-LEGAL SOCIETY, MARCH MEETING, 1911.

The Medico-Legal Society held its March meeting at the Waldorf Astoria, on Wednesday, March 15, 1911, at 8 p. m., in joint session with the Psychological Section of the Medico-Legal Society.

The following was the official order of the evening:

1st. Criminal Law Reform. The Indeterminate Sentence. The New York Probation Society and its Work. The defence of Insanity in Criminal Cases.

2nd. The Recent Reforms in Magistrates' Courts in New York City, by Chief Magistrate McAdoo.

3rd. Report of Progress by the Select Committee in the Case of Albert T. Patrick.

Acting President, William H. Francis, who was announced to preside, was prevented from attending by a violent storm which was raging at the hour of the meeting, and Mr. Clark Bell was called to the Chair and presided over the meeting. Mr. Frederick C. Dunn was on motion named as Acting Secretary pro-tem.

A paper by Ex-Judge A. J. Dittenhoeffer was read by the Secretary, entitled "To Expedite the Administration of Criminal Justice." A paper was read also by the same writer entitled "Medical Expert Testimony, Proposed Changes." Both papers were discussed together and it was moved and carried that both papers be published in the Medico-Legal Journal.

A paper on the Indeterminate Sentence was read by the Secretary, Mr. Clark Bell, who cited under Criminology an article on this subject by Dr. R. Gerraud, of Lyons, France; one by Hugo Conti, of Rome, Italy, and one on Conditional Liberation, by Dr. A. D. H. Fockema, of Holland. Under the heading of Criminal Law Reform, Mr. Clark Bell read papers by Hon. F. H. Norcross, Hon. Horace E. Deemer, Gerard Brandon, Emanuel M. Crossman, North T. Gentry, Esq., and by Hon. H. C. Sloss, and a paper also by the President, Hon. Wm. H. Taft.

Miss Maude Miner read a paper on the New York Probation Society and its work, which was ordered printed in the Medico-Legal Journal, and a vote of thanks was tendered to Miss Miner for her report, which was cited and alluded to in her article.

A paper by Frank H. Bowlby, Esq., was read on Insanity as a Defence in Criminal Cases. The paper was discussed and ordered printed in the Medico-Legal Journal.

Presiding Magistrate McAdoo, who had consented to address the Society upon the subject of Recent Reforms in Magistrates' Courts in New York City was prevented from attending.

The Select Committee in the Case of Patrick was called and submitted through Mr. Clark Bell, Chairman, as a report of progress, the form of an appeal which the Committee had prepared to be addressed to the Public, the Bar, the Medical Profession and the Public Press, with the form of a petition which had been submitted to the Members of the Medical Profession of the State, "declaring that the medical legal evidence upon which Albert T. Patrick was convicted, and especially as to

the action of the embalming fluid in the embalming process by the right brachial artery, was entirely unreliable and should not be recognized by medical science," of which a copy was submitted to the Society. And also another form of petition to be addressed to the Governor of the State to be signed by the Embalming Profession and the Legal Profession and others of a similar character.

The Chairman reported that the petitions intended for the medical men had been signed by a very large number of physicians, which had been forwarded to the Medico-Legal Society by mail and were now in the possession of the Chairman of the Select Committee and that the petition intended for the embalming profession was about to be sent out to the Embalmers of the State; that the Committee was negotiating an application to the New York State Embalmers' Association to co-operate with the Society in its efforts to secure the liberation of Patrick by asking the Governor to exercise the constitutional power of unconditional commutation and asking for the liberation and freedom of Mr. Patrick

The report of the Committee was received and approved unanimously. The form of the petition sent to the medical men and returned by mail to the Society was also approved; the form of the appeal and the petition sent to Embalmers and others was also approved and the Committeee was directed to send out the same to the Embalmers as a profession and their efforts were appreciated by the Society, and they were ordered to proceed along the lines rcommended by the Chairman and that the appeal and the petition be published in the Medico-Legal Journal and be sent to the Public Press.

On recommendation of the Chairman of the Executive Committee, Dr. Austin Flint, Frank H. Bowlby, Esq., L. A. Wilder Esq., of Rochester, New York, and Miss Maude Miner, director of the New York State Probation Society, were elected as Corresponding Members of the Society by unanimous vote.

The Society adjourned at a late hour.

CLARK BELL,
Acting President.
FRED. C. DUNN,
Acting Sec'y, pro-tem.

AMERICAN INTERNATIONAL CONGRESS ON TUBERCULOSIS

On conference with the officers of the Congress and by action of its Board of Trustees and with the full approval and unanimous consent of the Executive Committee of both the Congress and of the Medico-Legal Society, it has been decided to postpone the Congress announced to be held in the City of New York, in the Fall of 1911 till the Fall of 1912 at such a time and place as should be fixed by the officers having it in charge.

The extreme doubt and uncertainty now existing in the minds of the most eminent students of the Science respecting the relation between Human and Bovine Tuberculosis and the grave doubts existing between eminent men at to its communicability to man, the well known views of Dr. Koch, as expresed at Stockholm and at Washington, have convinced the management of the Congress that a postponement of the Congress until research and investigation now being made shall have reached some more definite conclusions, is in the best interests of the public and of the scientific questions involved.

All the officers of the Congress are re-elected and held over for the year 1912. The Executive Committee of the Congress has full power to fill any vacancy in the Congress by death, resignation or otherwise. All the problems confronting the Congress itself are still the subject of investigation, and members are requested to pursue their studies and investigations for another year.

The address of the Congress will be at No. 39 Broadway, where all communications may be addressed by those who desire to contribute to the discussion.

CLARK BELL, Vice-President.
Chairman of the Executive Committee of the International Congress on Tubercolosis.
J. MOUNT BLEYER, M.D.,
Chairman of the Board of Trustees.
HON. WILLIAM H. FRANCIS,
Acting President of the Medico-Legal Society.

Dated at the City of New York, January Eighteen, Nineteen Hundred and Eleven.

The following named gentlemen have been appointed a committee of co-operation with the American Institute of Criminal Law and Criminology, at the request of W. O. Hart, Esq., Chairman of the Committee of Co-operation of that Institute and have also been named as delegates to attend the September Session upon the question of Criminal Law Reform and of the Treatment of the Criminal, to be held in the City of Boston, on the 31st day of August and the 1st and 2nd days of September, 1911. Namely:—

Clark Bell, Esq., LL.D., 39 Broadway, New York City, Ex-President of the Medico-Legal Society of New York., Editor of the Medico-Legal Journal. John R. Nicholson, Ex-Chancellor of Delaware, Dover, Del. Hon. William H. Francis, Acting President of the Medico-Legal Society of New York, Newark, New Jersey. Hon. Frank Moss, Assistant District Attorney, of New York. Hon. L. A. Emery, Justice Supreme Court of Maine, Ellsworth, Maine. Dr. William Lee Howard, Wellsborough, Mass. Dr. M. M. Smith, Ex-Secretary and Treasurer of the American Congress on Tuberculosis, Dallas, Texas. Hon. L. F. C. Garvin, M.D., ex-Governor of Rhode Island, Providence, Rhode Island. Hon. Charles G. Garrison, Judge of the Supreme Court of New Jersey, Camden, New Jersey. Charles E. George Esq., of the Lawyers & Banker's Journal, San Francisco, California. General Stillman F. Kneeland, ex-President of the Medico-Legal Society of new York, New York City. Hon. J. Joseph Kindred, Vice-President of the State of New York at large and member of Congress from New York and Queens Districts, New York City. Frederick C. Dunn, Esq., Secretary of the Psychological Section of the Medico-Legal Society of New York, 39 Broadway, New York City. Judge A. J. Dittenhoeffer, New York City. Theodore A. Schroeder, of New York City. Dr. T. D. Crothers, of Hartford, Connecticut.

Please notify me if you are willing to serve, in time to fill the vacancy in case you cannot attend.

Respectfully yours,
CLARK BELL, Secretary.

JOURNALS AND BOOKS.

Medical Jurisprudence; Forensic Medicine and Toxicology, By R. A. Witthaus, A.M., and M.D.; Prof. of Chemistry, Physics and Toxicology in Cornell University Second Edition, Volumes 2 and 3. William Wood & Co., N. Y., 1907.

Volume 2 opens with an able and carefully written article by Prof. George Woolsey, A.B., M.D., of New York, on the medico-legal considreation of wounds other than gun shot wounds.

To the general practitioner the important question in the case of wounds inflicted or sustained in a case where it is related to a crime commited, is: is it self inflicted and in doubtful cases what relation it bears to the question of crime intention, &c., and whether made before

If death ensues, whether the wound was the cause of it or not, was it a primary or secondary cause, is some times an important medico-legal question.

To determine from a wound the instrument which inflicted it, is often of medico-legal importance and significance.

In suicide or attempted suicide, the wound itself, the body, the hair and the whole environment must be often studied. Prof. Woolsey's study is able, conscientious, thorough and while not an exhaustive one, shows careful preparation, research and study. He quotes from and cites from Ogston; Konig; Lutaud; Vibert; Brouardel; Taylor, Bell's 11th American Edition; London Lancet; Annales de Medicine Legale; Watson; Williamson; Hoffbauer; Willis; and Senn.

He favors the old authors, and quotes constantly from Taylor, and occasonally from Beck. He quotes Taylor's, Bell's 11th American Edition, more than all other authorities combined, showing great judgment and skill in his selections.

Gun Shot Wounds, is ably handled by Prof. Roswell Park, M.D., L.L. D., of the Uuiversity of Buffalo.

This is a valuable review and citation of cases, from various authorities and sources, of some of the many cases reported by authors and writers on this subject, and raising some of the problems arising in this class of cases, such as, does the bullet lose in weight in its course through the body?

Dr. Park is one of the ablest medical men in Buffalo. He does not cite from his own experience, and has perhaps had very little experience in gun shot wounds.

A surgeon in the West, or on the frontier who had a large and constant experience, where the revolver was in constant use, would be able to supply from his own experience. Such men as Prof. Eskredge, Dr. J. H. Hall of Denver; Dr. W. B. Outten, or the police surgeons of the western or southern cities would have a large personal experience and practical knowledge.

Sexual Incapacity in its Medico-Legal Relation. By Irving C. Rosse, A.M., M.D., F.R.G.S., (England). Prof. of Nervous Diseases, Georgetown University.

Unnatural Crimes. By Prof. Irving C. Rosse, A.M., M.D., F.R.G.S., Prof. of Nervous Diseases, Georgetown University.

These two works show the rare power and skill of the writer, especially the latter, in which he treats of sexual inversion; Bestiality; Pederasty and Tribaldism.

These are themes of great delicacy and required intelligent treatment, in which Prof. Rosse greatly excelled, and which he approached on a higher plane than any writer of his era. Prof. Rosse can not be compared to Krafft Ebing, who wrote in a different atmosphere, and from an entirely different standpoint. Krafft Ebing was considered by some salacious and unfit for general sale.

Havelock Ellis has gone more extensively into this department of medical literature. He was criticised as it seemed to me unfairly in England. but has received general commendation here since.

Irving C. Rosse, A.M., F.R., G.S., (England), is the author of death from its submersion in its medico-legal relations.

He was for many years one of the most esteemed and highly valued members of the Medico-Legal Society and was also one of the ablest all round men in the medical profession in Washigton, D. C., where he died some years ago. He was a man of education, culture and refinement, and a writer of acknowledged ability and merit.

His article is an example of his work able, careful, and a fair statement of the state of the then scientific knowledge of the subject. He wrote before Brouardel said the last word on this department of knowledge.

The courts have forced a full hearing on the legal question of what is to be regarded as "Obscene" on which Theodore Schroeder, Esq., of the New York Bar, has writen quite freely and has found a hearing in some of the highest toned medical journals in the country.

The essays by Prof. Rosse in both of these works will be read with great interest by both lawyers and physicians interested in these subjects.

MEDICO-LEGAL CONSIDERATIONS OF RAPE.

By Prof. J. Clifton Edgar of Cornell University and James C. Johnston, A.B., M.D., instructors in Pathology and Clinical Surgery and Dermatology, in Cornell University Medical School.

This is a very carefully prepared and written essay showing great ability, greater research and study and will well repay the careful examination of the most critical student.

It is the ablest and most reliable treatment of this subject I have seen in recent years, I strongly recommend it.

DETERMINATION OF SURVIVORSHIP.

By Prof. Tracy C. Becker, A.B., L L.D., of the University of Buffalo; and John Parmenter, M.D., Prof. of Anatomy and Clinical Surgery of the University of Buffalo.

Mr. Becker's citation is a fair statement of the state of the law, as far as it goes at the date it was written, and the rule as laid down by Chief Justice Church in Newell vs. Nichols 75 N. Y., p 89 and 90 is good law to-day, and the medical view taken by Prof. Parmenter is a valuable contribution to the literature of medical jurisprudence in regard to survivorship.

ABORTION AND INFANTICIDE.

By Prof. J. Chalmers Cameron, M.D., C.M., N.R.C.P.I., of McGill University.

Prof. Cameron, of McGill University, is a careful and painstaking, accurate, able and logical writer. His essay in this volume, is a very valuable work. Every student of the subject will read it with great interest.

He correctly states that infanticide is not recognized in England as a distinct and separate heading. The reference to the appeal of Prof. Glaiser at page 410 for the revision of the English law concerning infanticide is timely and Prof. Glaiser was right.

The heading is not in the English dictionaries. In the American Cyclopedia of Law it is omitted, due to the, writers for that work being usually English. It is a recognized heading in every American State and must be treated as Prof. Cameron has done under its title.

This article is reliable and carefully prepared, and he is entitled to the confidence and thanks of this profession and to the student of the science in both professions.

PREGNANCY, LABOR AND THE PUERPERAL STATE.

By Prof. J. Clifton Edgar, M.D., of Cornell University.

The contribution of Prof. Edgar to this subject shows great learning, unusal ability, careful research and a practical knowledge of the subject. His claim is to have a man write on a subject, which he understands and knows about of his own knowledge.

Contrast this author with some of the so-called writers, who write book after book, article after article, on subjects of which they have no personal or practical knowledge at all. Medical men will recall without

naming the man one who has written over a hundred papers on tuberculosis, without ever having the slightest actual practical knowledge of the subject, probably never having treated a case nor held a chair in any school or university in this branch.

He took all the ablest authors and writers on this subject, collected and collated them as if he had written each and all, the result of all, and then presented the whole as an original work of his own without giving one word of credit to any one author, whose labor he appropriated, changing sometimes the language, but keeping near the Idea. He had so to say a genius for doing this sort of work admirably, an agreeable speaker, and he had the faculty of repeating a saying of an author as if it was his own. I do not need to name this writer, all medical men and many medical journals know him.

Contrast him with such an able, clear, conscientious writer as Prof. Edgar, who speaks from his actual knowledge and personal experience and who, when he quotes or cites an authrity, does so of what he knows by his own experience.

MECHANICAL SUFFOCATION. HANGING AND STRANGULATION.

By Smith Lamb, A.M., and M.D., pathologist of the army medical museum at Washington, presents an able studied treatise, carefully collected, which is a valuable contribution to Medico-Legal Science.

This author cites Montagne; Lacassange; Bernard Ann de Hygiene; Colin; Limousin; Cobos; G. M. Hammond; Tidy; Taylor, Bell's 11th American Edition; Breuner; Neyding; Casper; Liman; Hoffman; Destre and Morat; Laffont; Pellier; Littre; Coyne; Maschka; Kieler; Virchow; Chaillons; Cavasse; Landergreen; Kratter; Page; Stevenson; Seabenski; and Langremter. He fairly quotes cited cases, from their authors, that will point the student how to inquire and will greatly help the student.

His chapter on suicide and on homicide with illustrative cases, p.p. 243 to 258, also 282 to 296, also 309 to 313, are interesting and splendidly edited.

He quotes and cites, Houghton; Larimore; Porter; Markenzie; Baron; G. M. Hammond; Thomas Ignatowsky; Haberder and Reiser; Prof. Tamassia of Padua; Waller; Thanhofer; Faure; Coutagne; Pallier; Levy; Devergie; on Resuscitation he cites Wagner; Seydel; Verse; Mobius; Luhrmann; Brackman; Schaffer; and Kemp; symptoms in hanging. He quotes Chowne; in case of Hornshawor; Blackenship; Hackel; or Lamb's contribution; it is a valuable collection to the literature on the subject, while he had excellent oportunities in the museum and access to the Library of the Surgeon-General at Washington, which is the best on this continent, or was at the time Dr. Lamb wrote.

THE MEDICO-LEGAL RELATION OF ELECTRICITY.

By William N. Bullard. M.D.

This subject is in its infancy, except lightning, what we have learned from electrocution, and the growing use of electricity in the arts, the electric telegraph and the telephone, and its constantly increasing uses as a force in locomotion.

Dr. Bullard has collated well what was known in his day.

The constant progress in human knowledge of electricity as a force in our mechanical, industrial advances, must add enormously to human knowledge. Only a few letters of the alphabet of electricity in its relation to man in his mdico-legal relations are as yet defined.

Mechanical Suffocation, Hanging and Strangulation. By Smith Lamb, A.M. and M.D., pathologist of the army medical museum at Washington, presents an able, studied treatise, carefully collected, which is a valuable contribution to Medico-Legal Science.

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RAILWAY INJURIES, THEIR CLINICAL AND MEDICO-LEGAL FEATURES.

By Prof. W. B. Outten, MD., of St. Louis.

There is perhaps no surgeon in America who has had a larger experience or more practical and personal knowledge of this subject than Dr. Warren B. Outten, who is the author of this essay which concludes Volume 2 of this work.

Chief Surgeon of the Missouri Pacific Railway, for many years having the full confidence of its officers he made that Great Railway System, the pioneer in the introduction of a new Department of Surgery, that of Railway Surgery, in Railway Systems especially.

The Era in railways that followed the construction of the Union Pacific Railroad from Omaha to the Pacific Ocean, was a marvelous era. The railway connected the vast expanse between the Missouri River and the Pacific Ocean.

The United States not only became the greatest railway nation in the whole world, but the railroads in the United States in mileage come almost to exceed all the railroads in all the countries of the world. This era dating from 1861 at the beginning of the Rebellion or before it, having such vast distances to cover, in construction, occupation and transportation, railway surgery became a branch of Surgery, along new lines that grew into a separate department of enormous proportions.

Dr |W. B. Outten, was the leading and most prominent figure and the ablest surgeon in this field of surgery not only in the United States, but in the World. He was made President of the National Association of Railway Surgeons.

He was most prominent in the creation of the advanced system of Railway Surgery. He established a railway hospital for his railway system and was the pioneer and torch bearer that blazed the way, not only but illumined the path for the railway surgeon but for the successful provision and preparation for the enormous flood of railway injuries that followed the addition of thousands of miles to railways, but that provided a surgeon for each important system and the great lines. When Mr. Chauncey Depew was president of the New York Central System I brought him into consultation with Dr. Outten as to the best plans for that great system of the Missouri Pacific Railroad.

No surgeon in America could write on Railway Injuries with a breadth and scope of actual experience equal to Prof. Outten. His article is a classic. He has compressed an able, and an exhaustive study into eight chapters and to about 209 pages.

Every railway surgeon should have it. Every railway lawyer should

carefully read it. It should be published as a volume and I hope will be a part of the Professional Work that I hope he will complete ere his career is ended in Railway Surgery.

THE ANNUAL REPORT OF THE NEW YORK PROBATION SOCIETY.

We clip from this interesting report some extracts, which should perhaps have been a part of the interesting article of Miss Maude Miner:

DISPOSITION OF CASES IN THE NIGHT COURT.

"During the year, from August 1, 1909, to July 30, 1910, 7896 complaints were taken against girls and women in the Night Court for offenses relating to immorality and prostitution. These included soliciting on the streets for purposes of prostitution, accosting men, associating with dissolute and vicious persons, and violating the tenement house act by carrying on prostitution in a tenement house.

"The disposition of the cases was as follows:

Discharged	2648
Fined $1 to $10	3913
Committed to the Workhouse	1071

FINING PROSTITUTES—STARTLING STATEMENT.

"Nearly four thousand women were fined from $1 to $10, and if all of these fines were collectel, as they usually are, the city treasury was enriched during the year by $18,327—the earnings of prostitution. . . .

"It was a pleasure to hear one of the magistrates sitting in the Night Court recently announce from the bench, when urged by the counsellor to impose a fine in the case of a woman convicted of soliciting, "I refuse to fine any woman for prostitution." If all the magistrates would take this view the one big step forward would be taken."

Is this not a startling proposttion that the prostitutes contributed $18,327 to the City?

THE EVOLUTION OF URINE ANALYSIS.

By Henry S. Wellcome, of Burroughs, Welcome & Co., of London, and 35-9 W. 23rd St., New York City.

Mr. Henry S. Welcome is one of the most energetic men connected with the scientific preparations of medicine in the world. The American Medical Association meets this year at Los Angeles, Cal., and Mr. Wellcome has prepared a volume upon the above named subject, in the most artistic style, beautifully illustrated, handsomely printed, which is devoted to a historical sketch of "The clinical examination of urine," showing great research, great ability, tact and business foresight, on the part of Mr. Wellcome.

He takes this occasion also to give notice that he proposes to hold a historical medical exhibition at the International Medical Congress, which is due to take place in London, in 1913. I think Mr. Wellcome's book of about 250 pages in small and fine type is without exception the most advanced and progressive piece of energetic advertising, that has come to my attention in many a day.

He has taken a large number of the leading remedies used by successful physicians for all the prevalent diseases, and he has advertised them in the name of his house, in the most unique and artistic way, and classified them as the "Wellcome Brand" of each remedy, and then he has, with his accustomed energy, adopted the similar plan, which he entitles the "Tabloid Brand," of the very large number of remedies which the house of Burroughs, Wellcome & Co., who are perhaps the largest and best known manufacturers of tabloid medicines in the world, and has given 15 pages of this very interesting book to a careful description of a very large number of these remedies.

Mr. Henry S. Wellcome's work is an artistic production and it is sure to make a great sensation at Los Angeles at the annual meeting. We take great pleasure in calling the attention of the Medical Profession to this very interesting production of Mr. Wellcome's ability and energy.

LEGAL MEDICINE.

By Prof. Gilbert H. Stewart, Esq., Starling Medical College, of the Columbus, Ohio, Bar. Publishers, The Bobbs Merrill Co., Indianapolis, 1910.

The work shows careful, painstaking research by an able, discriminating observer.

It is peculiarly valuable as a strictly legal or logical work, from a lawyer's standpoint. Mr. Stewart is a lawyer of great legal attainments and has examined questions on the medical side from the legal standpoint.

He has divided his work into 19 chapters, and while it can not be called an exhaustive or complete treatise, of the science of legal medicine, it is a valuable and reliable work from a careful student, on the legal side of the science, or from a lawyer's view.

In his first chapter as to its definition and history, he follows the lines of thought of Dr. James S. Stringham, who was a high authority at the beginning of the 19th century of acknowledged standing and ability. Prof. John J. Reese of Philadelphia, who was at the height of his fame during the last quarter of that century; Deane and Guy, two leading authorities of that era.

He gives full credit to the Medico-Legal Society, by quoting from the first number of the Medico-Legal Journal, which was published in June 1883, and its 3rd volume which related to the fundamental truths of the science as assumed in 1867, quoting from Prof. P. Brouardel, an honorary member of that Society, and of the work in volume 4 of that journal as to the ptomaines and their value in determining dates of deaths by the scientific processes of decay, through the whole book freely.

His second chapter treats of medical evidence and privileged communications, direct, presumptive and circumstantial evidence, are carefully printed and classified. Medical Jurists, their toil and value are carefully explained, printed communications carefully introduced and considered, and authorities cited on each general proposition.

Chapter 3, devoted to Expert Evidence, is an admirable production worthy of the attention of every medical expert, under the light of the decisions of the court.

The celebrated case of the trial of Prof. Webster for the murder of Dr. Parkman, Dr. John Hunter's advice, Ben Butler's advice, and the distinction between an expert witness and a non-expert witness are admirably produced.

Opinion Evidence and the qualification of Experts is ably handled. The result of the McNaughton Case was not the findings of the court, and the dicta cited on only one of the many questions submitted to the judges, at a time when the judicial mind was greatly disturbed by the verdict of the jury in that day.

It was not even *obitur dictu*, for that reason, still it did control the decisions and actions of the English Bench, because, there was no appeal in 1843, from the decision of a trial judge in homicidal cases and it is only quite recently that an appeal could be taken in England.

In the Maybrick Case, if an appeal could have been taken there would have been a reversal of that sentence on the argument of Chief Justice Sir James Fitz James Stephens ruling on the law of the case, and this case more than any other led to the recent change providing an appeal in England.

The Canadian Law vested the power in the Attorney General to allow a new trial in any criminal case when the death penalty existed, at the will of that officer, and this principle existed in all the English colonies. The opinions of the English Judges to the House of Lords' on questions to which Mr. Stewart refers was on a large number of subjects and the replies radically changed the existing law of England in many respects.

Chief Justice Stephen was perhaps the ablest writer on the existing law in England before he became Chief Justice. He went upon the record in his own works on what the law of England was upon the crucial

question in what he said "It ought to be, if it was not the Law of England."

The right and wrong test which the conference of Judges sought to lay down as the true test of insanity, as to the question of responsibility in Homicidal cases was Judge made law not ratified by Statute and not pronounced in any judicial proceeding in any case pending in any Court and was still acquiesced in by some courts in several of the American States, but the new Hampshire doctrine so-called, as defined by Mr. Justice Calvin Doe and his associates of that Bench was the more correct statement of the then actual state of the law of England as it was in the time of the case of Hadfield.

Judge H. M. Somerville, of the Supreme Court of Alabama, wrote the controlling opinion of the Court of that State, re-asserting and re-affirming the New Hampshire doctrine, which was followed in other States and is in accordance with Erskine's opinions and views, on the trial of Hadfield, which will as time progresses be the elementary principle that must govern and control in the English speaking countries, where the principles of law as an exact science rest on the elementary principles of the old English Common Law.

The view taken by Mr. Stewart as to the present evils of expert evidence and how to remedy and correct them, are quite in accord with the views of the Medico-Legal Society, and he cites from volumes of the Medico-Legal Journal, (1883) upon this subject.

The Case of Thaw, in homocide, and of Molinoux, have brought all this kind of evidence into such great discredit and disrepute, that the Bench and the Bar are now agitating the proposed reforms in the law and a standing committee of the Medico-Legal Society under the chairmanship of Chief Justice L. A. Emery, of Maine, have had it under consideration, composed of Judges of the Supreme Court of several of the States from its membership, except in one, the members of that standing committee and the State of Legal and Judicial mistrust is now felt, which Mr. Stewart recognizes and about which he is on good ground.

Chapter four treats on the Hypothetical Question and the Fees of Experts. The Hypothetical Question is a part of the present system that requires careful thought.

The Guiteau Case is cited and the question propounded to Dr. Goddard, a prominent member of the Medico-Legal Society, is cited, and Dr. Goddard answers as to the Insanity of Guiteau, quoted: "He was unquestionably insane in my opinion."

The writer was in Court and heard Guiteau's address to the Jury at the invitation of the attorney for the Government, who was a Member of the Medico-Legal Society. The address, the conduct, the manner and the action of Guiteau left no doubt on my mind that he was insane. He laughed loud, gesticulated, and actually shed tears, and he, sang and was boisterous, vociferous, joyous, despondent and pathetic.

As President of the Medico-Legal Society, I had named a Committee of eminent members of the Society, to whom I requested that a portion of the brain of Guiteau be delivered for scientific study and examination. The request was complied with and a section of the brain was delivered to our Committee. The post-mortem disclosed that his brain was attached to the Dura Mater by adhesions to a considerable extent. Dr. Charles L. Dana, then a member of the Society, was one member of that Committee.

Twenty-two subjects are taken up and considered in chapters 6 to 19, covering 22 subjects treated in 375 pages of the book embracing feigned diseases, disqualifying diseases, Impotence and Sterility; Doubtful Sex; Age and Identity; Rape; Crimes Against Nature; Pregnancy; Delivery; The Caesarian Operation; Legitimacy; Superfectation; Infanticide; Criminal Abortion; Presumption of Suvivorship; Life Insurance; Malpractice; Wounds; Death from Violence; Blood Stains; Insanity and Poisons. Certain of these subjects are only touched upon; others given more attention, but all in a careful, lucid and intelligent manner from a lawyer's standpoint and much after the manner of Reese, Guy, Deane and the other standard authorities of the old school.

Mr. Stewart's treatment of subjects is able, fair, just and very interesting. He cites cases with which he does not agree and it don't mean that he approves of views he quotes, as to which he does not state clearly his approval or objection. He gives it as a part of the res gestae of the subject, to be considered and to allow it to be considered from all sides.

Upon the "Right and Wrong Theory" as a legal test of Responsibility, Mr. Stewart, after quoting and commenting on Stephen's view in Stephen's Criminal Law, page 87, "Lawyers and Physicians mean different things by the word madness." A lawyer means conduct of a certain character. A physician means a certain disease one of the effects of which is to produce such conduct," and the question of criminal responsibility submitted to the fifteen judges after the McNaughton Case and quoting their answer in extenso. He cites the doctrine laid down by Mr. Justice Somerville of the Supreme Court of Alabama in the Case of Parsons vs. The State, which may well be called the leading American case, against the views of the English Judges, but asserts and concedes that this case does not state the law as it is determined, by the great majority of the Courts in this country and in England.

He concurs in, and cites the view of Judge Davis in People vs. Coleman, tried in New York, at the time of the Guiteau trial, and finally summing up at page 416 in Section 159.

"The unsoundness of mind or Insanity which we are now considering must be such as to create an uncontrollable impulse to do the act charged, by overriding the reason and judgment, and obliterating the sense of right and wrong, as to the particular act alone, and depriving the accused of the power of choosing between them, or it will not come within the legal definition of irresistable, and relieve the accused of responsibility."

Judge H. M. Somerville, who wrote the prevailing opinion in Parsons vs. The State, afterwards was elected President of the Medico-Legal Society. Judge Davis, who wrote the opinion in People vs. Coleman, was an active member and officer of that Society. Col. Corkhill, who was the Attorney for the People in the case against Guiteau, was also an active member of the Medico-Legal Society, and the writer was the attorney for George Francis Train, who was discharged by the verdict of a Jury after a commitment by the Court to an nsane Hospital.

The volume as a whole is well printed, on good paper and will interest the Bar and enlighten the student and the practitioner. It will be popular with lawyers. I shall place it on the list of the few works which I shall sell and I shall take pleasure in allowing trial lawyers to buy it. I shall recommend and I shall take pleasure in advising trial lawyers to buy it. Mr. Stewart's style is pleasing. He interests you and he notes all sides. I feel sure that the work will sell well.

To the Bench and Bar:-

The Medico-Legal Journal announces the reproduction of the Present Bench of the Supreme Court of the United States from portraits furnished by the judges, to this Journal for the purpose, the aim of which will be, to present the personality of the Judges of a sufficient size and excellence to fairly represent the individuality of each judge, in a group 30 by 20 inches in size.

These heads will also appear, one on a page in the forthcoming numbers of the Journal, of the same size as in the group, and they will be furnished singly, or all in a portfolio to those, who desire them at a nominal cost to cover the cost of their production.

Members of the Profession desiring the group will be furnished with the same on request and sample copies of the heads of any of the members of the court, and a prospectus will be sent on application, to the Medico-Legal Journal. No. 39 Broadway, New York City..

Theodore Schroeder's Book on Obseene Literature and Constitutional Law is attracting attention.

It has been reviewed in a large number of Medical Journals and Legal Journals.

The American Journal of Clinical Medicine, has recently reviewed it.

.The Medico-Legal Journal published an extended review and notice of it.

The leading medical journals are noticing and reviewing it.

The prominent Law Journals are noticing Dr. Schroeder's propositions.

The Medico-Legal Journal, will furnish it to:

1. Members of the Society.
2. Members of the Medical and Legal Professions.
3. To students of Penology, Criminology and Constitutional law only. It is not sold to laymen.

This necessitates a limited and restrained sale and it will only be sent to selected names of professional men at the price of Five ($5.00) Dollars on application to this Journal.

Booksellers who wish to order it can receive a commission of 50cents a copy but must remit the price and submit name and address and if the order is declined the money will be returned.

OBSCENE LITERATURE AND CONSTITUTIONAL LAW.

By Theordore Schroeder.

We shall review this work in our next number. The delay in our current number enables us to notice some commendable notices of the press of this book.

"Carefully and with painstaking energy and sincerity of purpose has this volume of some 400 been prepared.

The book is cleanly written, interesting, and worth the time of every interest to read and learn." (Clinical Medicine, of Chicago.)

"It is a congenial task for any person who harbors any of the emotions of the iconclast, toward certain of our modern tendencies ot democracy, to read, discuss and criticise the book under review.

Mr. Schroeder is very earnest in his conviction that the suppression arbitrarily of matter as obscene and the embarge on its transmission through the mails, is not only responsible for ignorance in sexual matters that helps to fill our asylums, but is a direct violation of the constitutional guarantee of the freedom of he press." (The Lawyer and Banker, San Francisco, Cal.,)

"It is not only unique of its kind, but it is far and away ahead of the constitutional guarantee of the freedom of the press." (The Law-handled; comprehensive and directly to the point, with an array of facts that no lawyer in the country, who may have law cases to deal with, of the classes here discussed, can possibly afford to omit from his library; This book is a magnificent shot in the right direction." (American Journal of Dermatology.)

Our review has gone out in advance sheets, and the Medical and Legal press indicate a large demand for work. Its sales will be limited to the learned professions, and it will be $5.00 in advance and the name and the profession of the purchaser scrutinized. Publishers will be allowed a commission who will respect these limitations.

CONSTITUTION AND BY-LAWS.

OF

THE MEDICO-LEGAL SOCIETY.

OF THE CITY OF NEW YORK.

AS REVISED BY THE TREASURER JANUARY 1, 1910.

ARTICLE I.

Section 1. This Association shall be known as the Medico-Legal Society.

ARTICLE II.

Sec. 1. There shall be three classes of members in this association, viz: Active, Corresponding and Honorary.

Sec. 2. Any person in good standing in either the medical, chemical, legal or other professions and scientists in the United States, recommended by any member of either of said professions, respectively, after consideration, of the proposal for membership by the executive committee, if recommended by the executive committee, shall be eligible to Membership.

Sec. 3 Any member of the medical, chemical, legal or other professions, scientists residing outside the City of New York, and recommended by the executive committee shall be eligible to Corresponding Membership.

Sec. 4. Physicians, chemists and lawyers, of recognized eminence in their respective professions, shall be eligible to Honorary Membership, if recommended by the executive committee. Any person so elected may be removed from such membership upon the recommendation of the executive committee. Such roll of honorary members shall not contain more than one hundred names of persons so selected, and the number shall not include more than fifty from either of said professions of medicine, chemistry or law.

Sec. 5. The society may remove any honorary members upon recommendation of the executive committee.

Sec. 6. Any person contributing one hundred dollars in cash, volumes or library furniture, accepted as such by the library committee, shall be thereby constituted a life member of the society. A like contribution of two hundred and fifty dollars shall constitute the donor a patron of the library. A like contribution of five hundred dollars shall constitute the donor one of the founders of the library.

ARTICLE III.

RIGHTS AND PRIVILEGES.

Sec. 1. Active members only whose dues shall have been paid for the year preceding, shall be eligible to nomination or election to office, or entitled to vote. All other rights and privileges shall be equally enjoyed at the meetings of this association.

Sec. 2. Honorary and corresponding members may have the printed transactions of the association delivered to them upon payment of the annual dues of active members

ARTICLE IV.

OFFICERS.

Sec. 1. The officers of this society shall be a President, two Vice-Presidents, styled first and second respectively, a Secretary, an Assistant Secretary, a Corresponding Secretary, a Treasurer, a Librarian, a Toxicologist, a Chemist, a Curator and Pathologist, a Bacteriologist, a Microscopist, six Trustees and six Counsellors. There shall be elected six Trustees and six Counsellors from the Membership, of whom two shall hold office for one year, two for two years and two for three years, and two annually elected thereafter at each annual election, who shall have a seat and vote in the executive committee. The said Counsellors shall be chosen by ballot at the first meeting after the adoption of this amendment, and at the annual election thereafter as all other officers are chosen." The Toxicologist, Chemist, Bacteriologist and Microscopist shall make an annual report at the annual meeting of the Progress of the Science during the preceding year in their respective specialities.

Article V.

DUTIES AND PRIVILEGES OF OFFICERS.

Sec. 1. The President, or in his absence the vice-presidents in their order, or in their absence a chairman, pro tempore, shall preside at all meetings, and such presiding officer shall perform all the duties connected with such office. The President shall be ex-officio member of all committees.

Sec. 2. The Secretary shall keep the minutes of the proceedings of the meetings of the society, and of the executive committee; and at the stated meetings of the society, shall collect and give receipts for the fees and dues of members, in the absence of the treasurer; and he shall pay over the sums so collected to the treasurer, as soon thereafter as practicable, giving the name or names of those having so paid, therewith, to said treasurer, and take a receipt from the treasurer therefor; and, in addition thereto, he shall notify officers and members of committees of their election or appointment, and members-elect of their election; certify official acts, and procure and sign with the president certificates of membership, and deliver the same to new members; and perform such other duties as are usually connected with the office of secretary.

Sec. 3. The Assistant Secretary shall keep a list of the active members, issue the notices of the meetings, and in the absence of the secretary, perform his duties hereinbefore specified.

Sec. 4. The Corresponding Secretary shall conduct all the correspondence of the society, except that with active members.

Section 5. The Treasurer shall attend at all meetings to collect the fees and dues of members and give receipt therefor, personally, or by the aid of the secretary as hereinbefore specified; and he shall have charge of all moneys so collected, belonging to the society, and deposit the same in the name of this society, pay all expenses incurred by the society, by and with the consent of the executive committee; and he shall present an account of the moneys so collected and deposited, and expended, with the items of deposits, or of expenditure, for the month preceding, at every meeting of the executive committee; and he shall report the number of members in the society, up to the date of said report, with the number of those in arrears, with the respective sums due from each, at least once in three months, or oftener if so required by said executive committee; and upon the last stated meeting of the society of the current year, he shall make his annual report to the society at such meeting; and state the amount of moneys on hand at the commencement of said year; the amount received for dues from members, and for initiation fees from members-elect, during said period, and the names of persons who had been so elected, who had failed to pay such fees and dues; and the names of members who are then in arrears for dues, with the amount so due from them respectively, at the date of said report; and he shall add thereto such recommendations in regard to improvements which can be made to facilitate the transaction of the business of his office as he may deem beneficial.

Sec. 6. The Librarian shall preserve, and hold accessible to members of the society, all its written and printed contributions contained in the library, and report the condition thereof at the stated meeting of the society, prior to the meeting for the general election.

Sec. 7. The Chemist shall have charge of all the business of the society relating to chemistry; and he shall make his report upon the matters of such description which have been brought before the society during the year, with his recommendations in regard thereto.

Sec. 8. The Curator and Pathologist shall have charge of all pathological specimens offered to the society, and prepare the same for exhibition; and upon the direction of the society or of the executive committee, he shall take proper means to preserve such specimens as possess Medico-Legal merits, for the benefit of the society, and make an annual report in regard thereto.

Sec. 9. The Trustees of the society shall have charge of the general business management and financial transactions which shall affect the welfare and standing of the society, and they shall receive all property belonging to the society, and deliver the same to the proper officer of the society assigned to have charge of the same; and said trustees shall exercise a general supervision over such property, for the preservation of the same, and make and retain an inventory thereof, for the use of the society; and at the annual meeting said trustees shall make their annual report to the society to show the condition and value of such property, and the increase and decrease in such value, together with a description thereof, and as to the value thereof at the last annual report, and the value of all additions thereto, with a description thereof, since such prior annual report; and said trustees shall make and execute all contracts and agreements in behalf of the society on instruction therefor by the society or by the executive committee, and perform all other proper duties usual to the office of trustees of similar societies.

Sec. 10. It shall be the duty of every officer or trustee of the society to attend at every meeting of the society and of the executive committee; shall make an annual report each year of the progress of the Society respectively, and any officer or trustee who neglects to so attend, and who shall absent himself from two of such consecutive meetings, without sending a notice in writing of his intended absence, shall be deemed to have vacated his office thereby, and a notice of such vacancy shall be thereupon published at said second meeting; and the said office shall be filled by election at the next stated meeting, for the balance of the term of such officer, unless such officer is excused by the society or executive committee.

ARTICLE VI.

THE STANDING COMMITTEES.

Sec. 1. The officers and trustees of the society shall constitute an Executive Committee, which shall meet at least once in each month, prior to stated meetings of the society, to consider and transact such business as shall be transmitted to them by the society.

Sec. 2. The ex-presidents of the society, while they attend the meetings, and remain in good standing as active members of the society, shall be ex-officio members of the executive committe.

Sec. 3. The society may appoint or provide for the appointment of standing committees for its business and work, but not to conflict with any power or duty now therein vested in any committee, a majority of each committee shall constitute a quorum. The president of this society shall be ex-officio member of all committees.

ARTICLE VII.

PERMANENT COMMISSION.

Sec. 1. The organization of a Permanent Commission may be provided for and continued by the society.

ARTICLE VIII.

TRUSTEES, COUNSELLORS.

Sec. 1. There shall be six Trustees and Counsellors chosen equally from the medical profession or chemists and the legal profession or scientists; two of whom shall be chosen annualy for three years; and in the case of a vacancy occurring, the same shall be filled for the unexpired term by an election from the profession to which said office belonged.

ARTICLE IX.

ELECTIONS.

Sec. 1. All elections shall be determined by a majority of the votes cast for the office to be filled thereby. All officers shall be selected equally as near as practicable from the medical profession or chemists and the legal or other profession, or scientists.

Sec. 2. Elections of new members shall be decided by requiring at least two-thirds of the votes of members present at a stated meeting, voting by ballot, in favor of such election, unless the society order otherwise.

ARTICLE X.

AMENDMENTS—HOW MADE.

Sec. 1. Amendments may be made to this Constitution, after having been proposed in writing, at least one month prior to the stated meeting, when the same shall be called before the society to be voted upon, after the same shall have been recommended by the executive committee. A majority vote of the members present shall be necessary for the adoption of such amendment.

ARTICLE XI.

BY-LAWS.

Sec. 1. By-laws for the regulation of the business of the society may be prepared and adopted by the society.

ARTICLE I.

MEETINGS AND QUORUM

Sec. 1. Stated meetings of the Society shall be held once in each month, except in July and August, on such day as may be designated by order of the society or executive committee; and special meetings at the time fi he shall do so upon the request in writing The president may call special meetings and
xed by vote or by the executive committee of ten members.

Sec. 2. Stated meetings shall begin at eight o'clock, p. m., or as soon thereafter as a quorum is assembled; and special meetings at the hour designated in the call therefor.

Sec. 3. Ten active members shall constitute a quorum for business before the society.

Sec. 4. Five members of the excutive committee shall constitute a quorum of business before such committe, and a majority or all other committees.

ARTICLE II.

ADMISSION OF MEMBERS.

Sec. 1. The names of candidates shall first be referred to the executive committee. If reported upon favorably by said committee, they shall be balloted for at the time the report is made, or at some subsequent stated meeting. Two-thirds of the votes cast will be necessary for an election to membership.

Sec. 2. Every active member-elect shall sign the Constitution, or a formal acceptance of membership, within three months after notice of election: and in default thereof, said election shall be deemed void.

ARTICLE III.

FINANCIAL AND ETHICAL REQUIREMENTS, AND VIOLATIONS THEREOF.

Sec. 1. Each active member shall pay an initiation fee of five dollars, which, with signing the Constitution, or acceptance of membership, shall entitle him to a certificate of membership, of the society.

Sec. 2. There shall be an annual assessment of, and members will be required to pay four dollars, unless otherwise regulated by the society. But any member may commute such annual assessment by the payment of thirty-five dollars at one time, which shall exempt him from annual assessments for life, although he shall be liable for his quota as a member for an extraordinary assessment which the society may think proper to order.

Sec. 3. Any active member who shall neglect to pay his dues or assessments for six months, shall be notified of the fact by the treasurer; and should he for three months after such notice neglect or refuse to pay, a penalty of ten per cent. shall be added to his said dues, and the same be collected therewith; and upon his continued refusal to so pay, his name shall be striken from the roll of members of the society in one month thereafter.

Sec. 4. The ethical rules of the society shall be the same as those governing the medical and legal professions generally.

Sec. 5. Charges against members shall be made in writing, enclosed in a sealed envelope, and referred to the executive committee under such seal.

Sec. 6. In case of charges being so made, and the committee shall think that the charges are of so grave a nature as to require an answer thereto, copies of the same, under seal, shall be served upon the accused, and he shall be cited to appear before the said executive committee, and required to answer the said charges, at a meeting to be held not less than fifteen days from the time of serving such notice; and such member may be suspended from his rights as a member, pending such examination by said executive committee.

Sec. 7. After due examination, the said committee may acquit, admonish, or recommend the expulsion of such deliquent; or it may suspend him from a participation of the privileges of the society for a period of not exceeding three months thereupon.

Sec. 8. If the committee shall think the member ought to be expelled from the society, it shall be its duty to report the charges, and the evidence supporting the same, to the society, for action thereupon.

ARTICLE IV.

THE PUBLISHING COMMITTEE.

Sec. 1. All papers read before the society shall be referred to the Committee on Publication, consisting of the president, secretary and librarian, for consideration as to their merits for the advancement of Medico-Legal science, with power to publish the same, if they shall consider the same proper, for the information of the members of the society.

ARTICLE V.

TIME OF ELECTIONS—VACANCIES.

Sec. 1. The annual meeting for the election of officers and trustees shall be held in December in each year; and the election shall be made by ballot at the said December meeting, nominations having been made therefor at the preceding stated meeting as follows: The Assistant Secretary shall, at least two weeks before the annual meeting, forward by mail to every member entitled to vote and not in arrears for dues, a membership list with a list of members and a ticket printed in blank for the various officers to be filled, also a blank envelope addressed to the Assistant Secretary.

Members entitled to vote shall fill up the blank ballot and return the same to the Assistant Secretary by mail or otherwise, under seal.

At the annual meeting the assistant secretary shall deliver the said envelopes to three tellers to be named by the president, who shall proceed at once, in the presence of the society, to count the votes of the said ballots and announce the result to the society. Each election list and envelope sent shall be separately numbered and a duplicate list kept by the Assistant Secretary.

In case no choice is made by the said vote, counted and announced by the tellers for any office, the same shall be filled by the society by ballot.

Any member shall be entitled to receive his election list and vote at any time before the polls are actually closed, on payment of all arrears of dues, if in good standing.

Sec. 2. Vacancies can be filled at any time by a special election, at any stated meeting, nominations having been made and announced in the same manner as required for annual elections.

Sec. 3. At the meeting next succeeding the annual meeting, no business shall be transacted except the reading of the minutes, the report of the executive committee, the election of proposed members, and the addresses of the retiring and newly elected presidents, unless the society shall otherwise order.

ARTICLE VI.

ORDER OF BUSINESS.

Sec. 1. At the meetings of the society the following shall be the order of business:

1. Calling the meeting to order.
2. Reading the minutes.
3. Payment of dues, fees and fines.
4. Reports of Executive Committee, and election of proposed members.
5. Reports of Special Committees.
6. Reports of Permanent Commission.
7. Reading the Paper of the evening.
8. New business.
9. Unfinished business.
10. Adjournment.

Sec. 2. In relation to the order in which the business shall be conducted in the society, the following shall be the order of precedence in which the same shall be presented by the president for consideration:

1. Motion to adjourn.
2. Motion to lay on the table.
3. Motion for the previous question.
4. Motion to postpone to a day certain.
5. Motion to send to a committee.
6. Motion to amend.
7. Motion to postpone idefinitely.
8. Motion for special business.
9. Motion concerning questions of order.
10. Motion to suspend the rules.

Sec. 3. The said respective motions shall be submitted for the consideration of the society, and each shall have precedence before all motions submitted prior thereto, in the numerical order hereinbefore specified; and the same shall be considered in their proper order, in the manner usual to deliberative societies.

ARTICLE VII.

SUSPENDING AND AMENDING BY-LAW

Sec. 1. Two-thirds of all votes cast at a stated meeting of the society shall be sufficient to suspend the By-Laws.

Sec. 2. For their amendment the same rule and same vote shall be required as for amendments to the Constitution.

THE PERMANENT COMMISSION.

The society, at a meeting held February 16, 1876, unanimously adopted the following resolution, establishing the permanent Commission:

RESOLUTION.

Sec. 1. There shall be established a Permanent Commission, consisting of the president and six members, to be elected by the society, upon the recommendation of the executive committee, chosen equally from the Medical and Legal professions. At the first election two members shall be chosen for three years, two for two years, and two for one year; and thereafter two members annually for the term of three years.

Sec. 2. The Permanent Commission is charged with the duty of receiving all cases, questions, or demands for advice that may arise between the regular meetings of the society, and of acting upon them as speedily as possible.

Sec. 3. Five members shall constitute a quorum; and a majority of those present shall decide upon what report or answer to make to cases, questions, or demands submitted.

Sec. 4. Cases, questions or demands shall be addressed to the president of the society, who shall thereupon call the Commission together as soon a practicable.

Sec. 5. The Permanent Commission shall report as soon as practicable, directly to the person, officer, or authority making a demand or submitting a case or question, and also to the society at its next ensuing meeting.

Sec. 6. The report or opinion of the Commission, shall not bind the society, but are subject, by a vote of the society, to be either rejected, modified or confirmed.

Sec. 7. The Commission shall elect their own chairman and secretary; and the secretary shall keep a record of the proceedings of the Commission.

MEDICO-LEGAL JOURNAL

INDEX TO VOL. 28, 1911

Clark's Criminal Law.

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